The Indians of South Africa

HELOTS WITHIN THE EMPIRE
AND
HOW THEY ARE TREATED.

BY

HENRY S. L. POLAK,

ATTORNEY OF THE SUPREME COURT OF THE TRANSVAAL;
EDITOR OF "INDIAN OPINION," NATAL;
DELEGATE TO INDIA FROM THE TRANSVAAL AND NATAL.

Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions? fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same summer and winter, as a Christian is? if you prick us, do we not bleed? if you tickle us, do we not laugh? if you poison us, do we not die?—
Merchant of Venice.

PRICE RE. ONE.

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M K GANDHI

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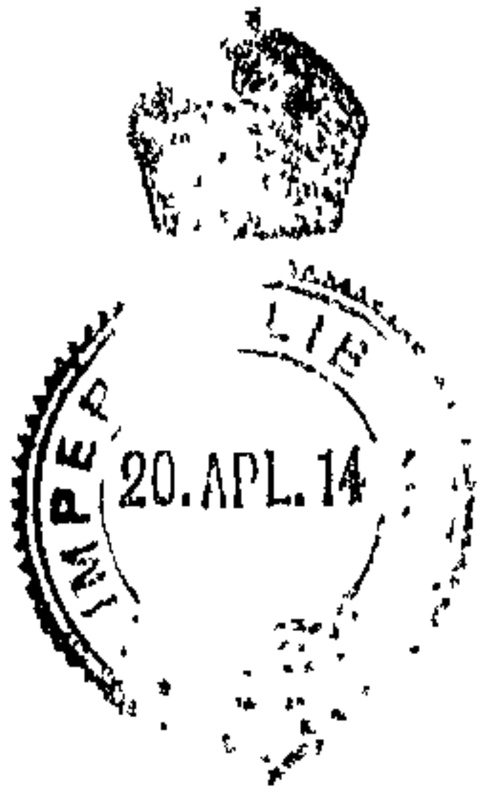
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FOREWORD.

Since my arrival in India, I have been frequently asked for a brief and connected account of the many grievances of the Indian Colonists of South Africa, and in the following pages an attempt has been made to set forth, descriptively, but, at the same time, as succinctly as may be, the legal and actual position of the Indians who have, in a spirit of enterprise and foresight, taken up their abode in the South African sub-continent, aided in the development of their adopted country's commerce, industry, and agriculture, reared families, and helped to broaden the basis of life of, and relieve economic pressure in, their Motherland. Wherever possible, reference has been made to the text of the laws themselves, and frequent quotations are made from newspapers and public documents, in support of the statements I have made. It will be seen therefrom that the grievances of the Indians in the various South African Colonies are many, serious, and legitimate, and that in their attempt to procure a remedy, the Indians have succeeded in evoking expressions of opinion, distinctly favourable to their case, from those who might reasonably be expected to be, if anything, hostile witnesses. It is a matter for congratulation, though not, perhaps, for surprise, that in South Africa, as elsewhere, open injustice calls forth the protests of men who abhor it, and who do not fear to speak out boldly in defence of its victims, regardless of the creed, colour, or race of these. It is a trite saying that "one-half the world knows not how the other half lives." If it did, there would be a greater degree of charity and mutual forbearance. As it is, the greater part of the sufferings borne by the South African Indians are due to the ignorance and carelessness of their European fellow-colonists. The latter are usually unaware of what is going on and what is

being done in their name; they are ordinarily too much engrossed in *material pursuits* to have time to spare for the consideration of hardships, which, as a rule, they are unable to appreciate, not being themselves subject to the disabilities complained of. In a country where ignorance, prejudice, passion, and personal interest hold such *powerful sway as they do in Austral Africa, justice is tardy,* and cruelty, intended and unintended, frequent. It is believed, however, that all the best elements of the South African nation are on the side of truth and fair play, and that sooner or later, the South African Colonists will seek to utilise the resident Indian community in the building up of the fabric of a great South African Union, and will realise how very valuable an asset the Indian element will be *in the national life of the future. If India can do her part in the* hastening of that happy day, she will have performed an Imperial service of no mean order. In this narrative, I have endeavoured to write with as much accuracy and restraint as possible. Where it is shown that I have erred, either in excess or in diminution of the truth, I shall gladly make amends, as completely and as publicly as possible.

M. S. L. P.

Madras, October 18th, 1909.

We hold ourselves bound to the natives of our Indian territories by the same obligations of duty which bind us to all our other subjects, and these obligations, by the blessing of Almighty God, we shall faithfully and conscientiously fulfil.—*Queen Victoria's Proclamation, 1858.*

I am convinced myself that there is no more evil thing in this present world than Race Prejudice; none at all. I write deliberately—it is the worst single thing in life now. It justifies and holds together more baseness, cruelty, and abomination than any other sort of error in the world.—*H. G. Wells.*

Many people think that the real Indian nation is being hammered out in South Africa.—*Times of India* Special Correspondent at the Indian National Congress, 1908.

Not only must we treat all nations fairly, but we must treat with justice and good-will all immigrants who come here under the law. Whether they are Catholic or Protestant, Jew or Gentile, whether they come from England or Germany, Russia, Japan, or Italy, matters nothing. All we have a right to question is a man's conduct. If he is honest and upright in his dealings with his neighbour and with the State, then he is entitled to respect and good treatment. Especially do we need to remember our duty to the stranger within our gates. It is the sure mark of a low civilisation, a low morality, to abuse or discriminate against or in any way humiliate such a stranger, who has come here lawfully and who is conducting himself properly. To remember this is incumbent on every Government official, whether of the nation or of the several states.....To shut them out from the Public Schools is a wicked absurdity, when there are no first-class Colleges in the land, including the Universities and Colleges of California, which do not gladly welcome Japanese students and on which Japanese students do not reflect credit. We have as much to learn from the Japanese as Japan has to learn from us; and no nation is fit to teach unless it is also willing to learn. Throughout Japan, Americans are well treated, and any failure on the part of Americans at home to treat the Japanese with a like courtesy and consideration is by just so much a confession of inferiority in our civilisation. ...It is unthinkable that we should continue a policy under which a given locality may be allowed to commit a crime against a friendly nation, and the United States Government limited not to preventing the commission of the crime, but in the last resort, to defending the people who have committed it against the consequences of their own wrongdoing.—*President Roosevelt, in his Message to Congress, 1908.*

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The Indians of South Africa.

INTRODUCTORY.

IN an Address delivered to the Industrial Conference, at Poona, in 1890, by the late Justice Ranade, entitled "Indian Foreign Emigration", appears what is, so far as the writer is aware, the first organised attempt, on the part of a leader of Indian thought, to envisage the question of the emigration of British Indians to British Colonies and Foreign Possessions, to analyse the conditions of such emigration, and to correlate its results with the daily life of India, her commerce, her industries, her agriculture, her social, economic, and political development. Perhaps no other public man, either in India or in England, has so completely grasped the real inwardness of a movement that is fraught with so much meaning for India, that has done, can do, and will do so much to revolutionise and revivify Indian thought and customs. A perusal of the Address is an economic and a patriotic inspiration. "There can be no doubt", he says, "that the permanent salvation of the country depends upon the growth of Indian Manufactures and Commerce, and that all other remedies can only be temporary palliatives. At the same time, it is admitted that this diversity and change of occupation is a very arduous undertaking. It pre-supposes a change of habits, it postulates the previous growth of culture and a spirit of enterprise, an alertness of mind, an elasticity of temper, a readiness to meet and conquer opposition, a facility of organisation, social ambition and aspiration, a mobile and restless condition of Capital and Labour, all which qualities and changes are the slow growth of centuries of Freedom and Progress.....But it is clear that as a present remedy, there is but little hope of relief in this direction. A vast majority of the surplus poor population of an agricultural country can only be naturally fitted to work as agriculturist labourers, and the slow development of our manufactures.....cannot provide at present the much-needed relief of work suited to their aptitudes. *Inland and Overland emigration, the overflow of the surplus population from the congested parts of the country to lands where labour is dear and highly*

*remunerative, can alone afford the sorely needed present relief..... Few people are aware of the comparative magnitude of this relief, thus afforded to our surplus population, and of the magnificent field for extension which is opening before our vision in the possibilities of the future...*The tastes, habits, temperaments, and prejudices of our people, have acquired an inveterate force which makes it no easy task to adapt themselves to new surroundings, and yet, *if the old thraldom of prejudice and easy self-satisfaction and patient resignation is ever to be loosened, and new aspirations and hopes created in their place, a change of home surroundings is a standing necessity and a preparatory discipline, whose material and moral benefits can never be too highly estimated. Mr. Draper, the American Philosopher, in his "History of the Intellectual Development of Europe," went so far as to say that the deluge and death, which had paralysed Oriental races, could only be cured by free transplantations of these people into Foreign Lands, or by free intermixture in blood with more energetic Races."** And he concludes his Address with a paragraph containing the following remarkable enunciation of the principle underlying the present terrible struggle in the Transvaal: "The Schoolmaster, the Doctor, and the Lawyer,... and even the Priests of different Sects, have here a most favourable field for their operations and enterprise among people who are their kith and kin, and on whom sympathy would never be wasted."

Let us, therefore, examine the condition of affairs in South Africa, to-day and consider how far Justice Ranade's ideas and ambitions have been *realised or are in the way of being realised.*

The South African sub-continent comprises, for our present purposes, the territories of Natal (including the Province of Zululand), the Transvaal, the Orange River Colony, Cape Colony, Southern Rhodesia, and the Portuguese Province of Mozambique. It was estimated, in 1906, that the proportion of free Indians in *the whole* of British South Africa was only one in every 62 of the total population, whilst there were eleven whites to every one Indian.

Reference has been made above to the *free* Indian population, and it should, therefore, be understood that the Indian population of South Africa is a composite one. Its origin is as follows: Nearly fifty years ago, Sir George Grey, at that time Governor of Cape Colony, visited Natal, on which occasion the Durban Corporation presented an Address that read, in part, in the following manner:—

* The *italics throughout this brochure* are the writer's.

" Independently of measures for developing the labour of our own natives, we believe your Excellency will find occasion to sanction the introduction of a limited number of coolies or other labourers from the East, in aid of the new enterprises on the coast lands, to the success of which sufficient and reliable labour is absolutely essential ; for, *the fact cannot be too strongly borne in mind that, on the success or failure of these rising enterprises, depends the advancement of the Colony or its certain and rapid decline.* Experimental cultivation has abundantly demonstrated that the issue depends solely on a constant supply of labour."

Thus, the cry first arose to India : " Help, or we perish !" The petition was granted. The first shipment of Indian contract labour reached Natal on November 16, 1860. From that small sowing has been reaped the most plentiful crop of insults, hardships, troubles, and humiliations, that could ever have been conceived by the most fertile imagination ! From that first shipment of British Indian indentured labourers, Indians have spread throughout the sub-continent, until, to-day, there is a maximum British Indian population of approximately 150,000 in South Africa. Of these, some 103,000 are either still under indenture or are the descendants of those who came to Natal under contracts of service.

NATAL.

From the standpoint of India, the most important centre of Indian population in South Africa is Natal, for, of the total South African Indian population of 150,000, no less than 118,000 are resident in that Colony. Of these, about 32,000 are still serving indentures, 71,000 are ex-indentured or the descendants of ex-indentured Indians, whilst some 15,000 belong to the trading section of the community who have come to Natal at their own expense, and many of whom have brought a not inconsiderable amount of capital into the country. The indentured and ex-indentured immigrants and their descendants are under the jurisdiction of the Protector of Indian Immigrants through the agency of the special laws relating to these. The immigration of the trading community is controlled by the Principal Immigration Restriction Officer by means of the *general Immigrants' Restriction* Act. The traders are not in any way subject to the disabilities imposed by the principal and subsidiary enactments relating to the introduction of contract labour from India. They came to the Colony at their own expense in the track of the indentured labourers, to supply the latter's needs. Since then,

they have extended their operations in the direction of catering for the poorer European, coloured, and aboriginal native (Kaffir) sections of the population, with marked success. The first Indian merchant to come to South Africa was Mr. Aboobaker Amod, a Memon gentleman from Porbander. His name is still revered by large numbers of Indians throughout South Africa. The Indian commercial class in Natal, as elsewhere in South Africa, are mostly petty storekeepers and hawkers. A very few are comparatively well-to-do merchants, whilst fewer still are landowners of any pretensions. But the financial depression that has existed in the Colony for several years, combined with the systematic persecution to which they have been subjected for so long years, has greatly impoverished what was once a fairly flourishing community, resulting in a return of many of the unsuccessful Indians to India, to swell the mass of poverty in the motherland. The trading class in South Africa come mostly from the Surat and Bombay districts; a few traders hail from the Porbander and Konkan districts. Kathiawar and Madras supply a large proportion of the hawkers. Many of the traders have settled in Natal with their families, whilst there are quite a number of Colonial-born youths of both sexes, children of some of these earlier settlers.

Minor Troubles.

It is unnecessary to record at length the many minor insults and humiliations that are imposed upon the free Indian community, traders and non-traders. On the railroads, in the tram-cars, in the streets, on the footpaths—everywhere, it may truly be said, the Indian may expect to be insulted, and if he moves from one place to another, it is on peril of having his feelings outraged and his sense of decency offended in a number of ways. The least epithet that is applied to him is "coolie," with or without some lurid adjectival prefix. "Sammy," too, is quite a common method of address. Both of these terms are customary all over South Africa. The origin of the first is obvious. But it is strange to hear the expressions, "coolie lawyer," "coolie doctor," "coolie clerk," and even "coolie maries," to describe the indentured women. The derivation of "Sammy" is not quite so plain. The early vegetable hawkers were mostly Madrasis, bearing such names as Ramasamy, Govindasamy, Coopoosamy, or Ponoosamy, frequently contracted to "Samy." To-day the expression is not confined to the vegetable hawkers, but is applied to all sections of the community. Thus, the writer recollects an occasion when Mr. Gandhi, the well-known Indian leader in South Africa, was travelling to Pretoria to fulfil an engagement with General Smuts. He was seated in a compartment of the train

when a pert European news-boy came up to the carriage-window, and, proffering his tray of light literature, asked in an insolently superior tone of voice: "Want any papers, Sammy?" The writer, with perhaps a mistaken sense of humour, suggested that the prefix "Mr." would not be out of place. The news-boy glanced up in sheer amazement, and, without a word, departed, no doubt horror-stricken at the idea of addressing a cultured Indian gentleman by an honorific!

In Durban, Indians, wearing the national dress, and all others, in practice, unless they are well-known to the principal officials, are required to travel outside the Municipal tram-cars, no matter what the state of the weather may be. And even then, they are not always safe from molestation by the conductors. A similar state of affairs exists in Pietermaritzburg, the capital, where the following incident occurred not long since. Swami Shankeranand is a distinguished representative of the Arya Samaj, at present on a religious mission to South Africa. *The Times of Natal*, one of the most prominent organs of public opinion in the Colony, describes how a party of Indians, including Swami Shankeranand, boarded a Maritzburg tram-car on their way to the Railway Station. The Swami, it appears, took his seat inside the car, whilst his friends went on the top. Shortly afterwards, the conductor rudely ordered the Swami, who was dressed in his religious garb, out of the car, and no reply was vouchsafed, beyond an oath, as to why he was to go. Upon their arrival back in the City, another conductor gave the Swami permission to take his seat inside the car. The Editor of *The Times of Natal*, in a footnote, remarked that a Tramway official, with the least grain of commonsense, should be able to discriminate in these matters. Unfortunately, however, as is evident from the above incident, even this minimum requirement is at times absent, with humiliating results to the unhappy Indian victim. A letter was subsequently addressed to the Tramways Administration, pointing out that a large section of the Indian community would refrain from using the cars, unless a satisfactory explanation were tendered. A reply was at once forthcoming that, in future, all respectably-dressed Indians would be allowed to take their seats inside the cars when desired. Generally, it may be said that, when complaints are addressed to the Administration, either of the Tramways or the Railways, a remedy of some sort is forthcoming; it is, as a rule, the minor officials, recruited from the ignorant, prejudice-ridden section of the European

population, who, vested with a little brief authority, often exercise it in uncouth fashion upon Indians, without distinction of person or rank. These cases of petty arrogance are so frequent, and it is often so difficult to secure corroboration, whilst the remedy afforded is often so completely inadequate, that the victims usually swallow the insult as mildly as the circumstances permit. But one can well imagine the irritation and sense of bitterness set up in the minds of sensitive and high-spirited youths of Colonial-born extraction and considerable educational attainments, who live according to European custom, and respectably follow their various avocations.

It is extremely difficult, if not practically impossible, for an Indian to secure accommodation in a hotel in Natal, a disability which is equally suffered in the Transvaal. At the public lavatories, accommodation is made for Europeans, on the one hand, and Indians and Kaffirs on the other. So is the civilisation of India confused, in that enlightened land, with the barbarism of the *aboriginal native*. *Although Indians are large rate-payers* in Durban, where many of them possess the Municipal franchise, whilst others again are qualified to do so, they are prohibited from making use of the public baths, to whose up-keep they contribute. The Municipality of Durban has recently carried out a Beach Development Scheme. There is a sea-water pool for little children to paddle in. Even the children of the most distinguished local Indian will not be allowed to play in this place. At Port Elizabeth, in the Cape Colony, it is, at least, realised that Indian rate-payers are entitled to some consideration. Accordingly, a separate (but inferiorly constructed) paddling-pool exists for non-European children. In Durban, again, there is a large, open municipally-constructed sea-enclosure, for public bathing. No Indian, however, will be permitted to pass the turnstiles, in order to take a sea-bath. And so the miserable tale might be extended almost indefinitely.

Immigration Restriction Law.

Turn, now, to the greater facts of Indian life in the Colony. *Taking first the Immigration Restriction Law, it is noteworthy that* it does not appear on the Statute-book as first drafted. The original law was one to totally exclude the immigration of Asiatics not under indenture. Mr. Chamberlain promptly refused to accept a law that "put an unnecessary affront upon the millions of India." Accordingly, a way out was found, by passing legislation of general legal, but differential administrative application, and the famous Natal Act has become the prototype of Immigration Acts in the Cape

Colony, New Zealand, Australia, and British Columbia. The Transvaal alone (*ex Africa semper aliquid novi!*) has sought to go further, and exclude Asiatic culture, admittedly because it *is* Asiatic, and for no other reason. Indians (except covenanted labourers) resident in Natal for three years may, under the law, obtain a certificate of domicile, containing particulars of identification, which enables them to leave the Colony and return at any time without molestation. Those who can pass the education test, which must be in a European language, imposed by the Act (a differential test, applied severely against Indians but lightly only, or not at all, against European, intending immigrants), do not require a domicile certificate, and if they are otherwise eligible, are freely admitted into the Colony. So severe, however, is the test (approaching in difficulty the Matriculation Examination of the Bombay University), that only 103 Indians were admitted under this clause during 1908, and the education test, generally, throughout South Africa, has effectively reduced free Indian immigration to a negligible figure, whilst the official reports show conclusively that the popular fear of an "Asiatic invasion" is baseless. The great Indian languages, with their wonderful literatures, are not recognised; and thus a learned pundit, deeply versed in Sanskrit and the profound philosophy of his race, but possessing no knowledge of the English or any other European language, would be prohibited from entering Natal, except on a Visiting Pass of limited duration. It is plain that, whilst the Immigration Law is, ostensibly, of general legal application, in practice it is applied principally against British Indians. The latter have admitted the peculiar position of South Africa. They have acknowledged the right of South Africa, in existing circumstances, to say what classes of people may or may not form a permanent element of its population. And they have, accordingly, in practice, consented to the severe restriction of all future Indian immigration to the cases of those who are able to pass the education test (applicable, however, on a sliding-scale of severity, at the discretion of the administering officer) of the general law. But the exclusion of the great Indian languages (in which a severe test could equally well and effectively be applied) is felt as a great humiliation by the Indian community, for, in effect, it prevents the entry of much of that culture which is easiest of absorption by the mass of the existing Indian population. And whilst distinguished Indians, speaking and using the vernaculars only, may be granted visiting-passes, extensible for considerable periods, equally

they may not, for the issue of these documents is within the absolute and arbitrary discretion of the Principal Immigration Restriction Officer, who actually did refuse visiting-passes to a large number of India-returned Indians, *en route* for the Transvaal, and in transit only through Natal, on the sole ground that he had been instructed not to permit the landing of any Transvaal Indians who declined to submit to the insults imposed by the Registration Law of the Transvaal! *Indeed, the evil influence of the Northern Colony is spread widely in Natal, and efforts are being made to increase the severity of the Immigration Law of the Colony. But it should justly be said that nowhere, either in Natal or the Cape Colony, in official or non-official circles, has the writer heard anything but expressions of incredulous surprise at or downright condemnation of the policy of the Transvaal.

Trading Licences.

Next, there is the Licensing Act of the Colony. This law is also of general application. But, in practice, it is directed solely against the Indian trader. Application for the issue of a new or the renewal of an existing trading-licence must be made annually to an official known as the Licensing Officer. In two cases, he is bound to refuse the licence—first, if the premises are not in a sanitary condition, and secondly, if the applicants are unable to fulfil the conditions of sub-section (*a*) of section 180 of the Insolvency Law, No. 47 of 1887, which requires the applicants "to keep such books of accounts in the English language as are usual and proper in the business carried on by them, and as sufficiently disclose their business transactions, three years preceding insolvency." In all other cases, he may or may not, at his own sweet will, issue trading licences. Indeed, the Chief Justice of Natal has gone out of his way to say that "it seemed to him, undoubtedly, that the Licensing Officer had an absolute discretion to grant, and it also seemed to him that he had an absolute discretion to refuse, except in two cases (when, as before-mentioned he is bound to refuse)." This is what Mr. L. E. Neame, certainly an unbiased critic in this matter, since he is hostile, though generously so, to the Asiatic in South Africa, on the unselfish ground that the sub-continent should be made the home of a great, self supporting white nation, says, in *The Asiatic Danger in the Colonies*, of the actual purpose and effect of the Natal Licensing Act:—

Outwardly, it carefully avoids class-legislation, for, in theory, it applies equally to Europeans and Asiatics. But *in practice it operates against the Indian Store-keepers.* No white man is refused a licence; Asiatics often suffer

* See also Appendix D.

what they regard as injustice. There is no appeal from the decision of the Licensing Officer,* and they can only protest and submit. In Durban, the Act has been admittedly utilised in order to prevent Indian merchants opening shops in the principal streets. *The Licensing Officer is the servant of a body of white store-keepers. He knows their views, and, whatever his personal opinion may be, he can hardly be expected to sacrifice his appointment by opposing those who employ him.* As a protective measure to the white trader, the Act is valuable. From the standpoint of expediency, the system may find supporters. *In reality, it is simply class legislation.*

It may be added that, when the Dealers' Licences Act was passed, the late Sir Henry Binns, one of Natal's most prominent public men, strongly protested against it, saying that it was an un-British measure, and that the ousting of the ordinary jurisdiction of the Supreme Court was a dangerous principle. Experience has shown the justness of those prophetic words. The administration of the Act was, in its initial stages, marked by an excess of zeal in restricting British Indian trade. The Licensing Officer at Newcastle refused to renew all Indian licences—that is, nine in number. It was after very great expense and trouble that six of them were renewed. As a result, and owing to pressure from the Colonial Office, the Government issued a warning to the licensing authorities that, unless they administered the Act with prudence and moderation, and respected existing licences, the Government might be obliged to amend the law, and restore the jurisdiction of the Supreme Court. That was in the earlier days of the law's administration. Below are given a few typical instances of what has happened in Natal during the last five years:—

(1). Mr. Hoondamal, who had been trading in the Colony for some time, wished to change premises, and to remove from Grey Street to West Street, Durban—just round the corner, in fact. The shop was absolutely free from objection from a sanitary standpoint. It belonged to an Indian landlord, and it was a portion of a block of buildings that had been devoted to Indian traders for several years. Mr. Hoondamal had a fancy-ware business, and dealt in Oriental silks and art-ware. His trade was almost entirely European, but he did not come into competition with any European trader. His shop was kept in a scrupulously clean condition. The transfer from one premises to the other was rejected by the Town Council, on the ground that there were already sufficient Indian storekeepers in West Street, which was, in future, to be reserved

*This is not strictly accurate. An aggrieved applicant for a trading-licence or any interested European who objects to the issue of a licence to an Indian, may appeal to the Town Council or Licensing Board, from whose decision there is no right of appeal to the Supreme Court, except on grounds of procedure, but not of fact.

for European traders, though, at the time, there were not three Indian stores in the business part of West Street.

(2). Mr. Dada Osman, one of the Joint-Honorary Secretaries of the Natal Indian Congress, had been in trade in Vryheid before the war. The place he was trading in was considered a location or bazaar during the Boer *régime*. At the close of the war, the District of Vryheid was annexed to Natal, and then Mr. Dada Osman was subjected to continued harassment, for the area surrounding his business-premises was coveted by local European traders. The Licensing Board eventually refused to renew his licence, unless he consented to remove to another location far away from the village, where it was impossible for him to do any business at all. Mr. Dada Osman's Vryheid business has, therefore, proved a very serious loss to him. In this case, as also in the previous case, testimonials from Europeans of good standing were produced to show the respectability of the applicant. It should be remembered, too, that Mr. Dada Osman's was the only Indian store in Vryheid. To add to the misery of the situation, the anti-Asiatic laws of the Transvaal, in force at the outbreak of the war, have been taken over bodily for this district of Natal. A British Indian, therefore, staying in Vryheid, not only has to undergo the disabilities imposed upon him by the laws of Natal, but has added to them the disabilities that the Transvaal laws have created for him.

(3). Mr. Cassim Mahomed had been trading for three years on a farm near Ladysmith. For some time his was the only store. Then a European firm opened a store near by, but discovered that Mr. Cassim Mahomed had all the trade of the District. In his absence, Mr. Cassim Mahomed's servant was "trapped," and charged with a breach of the Sunday Trading Law, the servant having sold to the "traps" a piece of soap and a little sugar. Armed with this conviction, the European firm opposed Mr. Cassim Mahomed's application for a renewal of his licence, a little later. The Licensing Officer listened to their objections, and refused to renew the licence. An appeal was taken to the District Licensing Board, which confirmed the decision of the Licensing Officer. The Court, with that strange sense of humour which characterises these bodies on such occasions of rejoicing, said that "it was not guided by any prejudice; it proposed to treat Mr. Cassim Mahomed as it had treated a certain European." Upon inquiry, it was learnt that this distinguished representative of the European community had been convicted of having sold opium, in contravention of the law, to the Indians work-

ing at the mines in his neighbourhood, and there were other allegations against him. There was all the world of difference between a technical breach of the Sunday Trading Law by Mr. Cassim Mahomed's servant, in his master's absence, and the breach of the Opium Law of the Colony by the European personally. But the Board rose superior to the logic of facts, and dismissed the appeal. Mr. Cassim Mahomed, too, produced excellent references from European firms of standing, yet this did not prevent his financial ruin at the hands of a European trade rival. But, it appears, on further investigation, Mr. Cassim Mahomed's ruin was brought about by a deep-laid conspiracy, for the Public Prosecutor, a sergeant of police, was actually a sleeping partner in the European firm that secured the conviction against Mr. Cassim Mahomed's employee! So that complainant and prosecutor were united in the same person!

In the year 1907, a violent wave of anti-Asiatic prejudice swept over Natal—the Colony is subject to these periodical phrenetic outbursts of race-mania; they have almost become endemic—and an attempt was made to crush a number of the most important Indian traders.

(4). The *Ladysmith Gazette* of the 12th January contained the following item:

> The Licensing Officer for the Borough of Ladysmith has notified the local Arab (Indian Mahomedan) storekeepers that renewal of their licences will not be granted after the termination of the current year, and that no transfer of licences will be granted during the same period. The announcement has met with much favour, *except by the Arab storekeepers.*

Strange as it may appear, these unenlightened British Indian traders actually did not contemplate, with the equanimity of their European trade rivals, their complete ruin within a year's time! The notice was subsequently withdrawn.

(5). At Tongaat, practically an Indian village, some 25 miles from Durban, the renewal of all Indian licences, with the exception of two or three, was refused, no reason whatever for the refusal being given by the Licensing Officer. Whilst a not unimportant section of the European community was rejoicing at the prospect of utter ruin befalling these unhappy people, a poor Indian woman, who kept a small store in the village, and who was refused a renewal of her licence, was compelled to close down. After two days' bemoaning her wretched fate, during which time she was observed to be in a terrible state of mental anxiety, realising that starvation stared her in the face, she was found dead in her house—broken-hearted.

(6). At Verulam, a neighbouring village, renewals of licences were similarly refused. At the subsequent hearing of appeals, from the Licensing Officer's decisions, to the District Licensing Board, most of the appeals were upheld, though some flagrant cases of injustice occurred. In one, that of Dhana Ramji, the appeal was dismissed because the Licensing Officer believed, owing to the cleanliness of the books, that they had been written up specially and had not been kept regularly—not that they did not adequately disclose the unfortunate man's financial position. In another, that of Narayan, the appellant, an old man, with a clean business record of 30 years, was refused his licence, because his books were not up-to-date, notwithstanding the fact that he had been too ill to attend to his business.

(7). On the 12th February, the Licensing Board for the Klip River Division sat at Ladysmith to hear the appeals of nine Indian traders against the decision of the Licensing Officer, who had refused the renewal of their licences for the current year. The Licensing Officer's reasons for refusal were as follows:

(1) It is not, in my opinion, usual and proper book-keeping to translate books and post them periodically by notes kept in a foreign language

(2) Rough notes in Gujarati, Hindi, or even English, cannot sufficiently disclose the business transactions and financial position of the applicants.

(3) Applicants did not produce their rough notes. The rough English notes produced show figures that give no details.

(4) The primary object of book-keeping is that each day's transactions should be recorded on the day they are transacted and not periodically.

(5) I do not believe that the books are posted weekly or even monthly, as stated. The evenness of the writing and colour of the ink convince me that this is not done.

(6) There is no check whatever upon the regular periodical posting of books if such a practice were to be allowed.

(7) The paltry salaries paid to these periodical or itinerant book-keepers cannot ensure regular book-keeping.

(8) Books as kept by applicants cannot, in my opinion, be the best and most reliable evidence in cases of insolvency.

For all these reasons, he held that the conditions imposed by the Insolvency Law had not been fulfilled. The Board held that every trader should be a competent book-keeper and should keep his own books! They refused to allow the regular book-keeper to be called in evidence. They also refused to allow the Licensing Officer's remarks to be put in as evidence. They persisted in asking questions in English to the appellants who, not understanding English well, were unable to reply. Eventually, counsel for the appellants was obliged to rebuke the Court for their scandalous levity. Addressing the Court, he urged that it was never the intention of legislators that

the drastic provisions of the Act should apply to the renewal of licences (the Supreme Court has, however, since held that the Act itself makes no discrimination between renewals and new licences). *The Times of Natal* commented, under the heading "A Scandalous Injustice," upon the above facts as follows:

> A more arbitrary and unjust proceeding could not be imagined; and we have no hesitation in saying that had the Boer authorities, in the days of the South African Republic, been guilty of such conduct, they would have instantly been brought up with a round turn by the Imperial Government. Here we have a number of reputable Indian shopkeepers, who have built up businesses in which a large amount of capital is invested, suddenly and arbitrarily deprived of their trading licences through alleged non-compliance with the law. They had complied with the law so far as it was in their power to do so, and those who could not write in English had their books made up in English at the end of each week by a competent book-keeper. They have done this for years past, and not a word has been said against the practice until now. We can only describe the decision of the Ladysmith Licensing Board as a scandalous injustice, illegal as well; and if the applicants had the right of appeal—which, of course, they have not—the Board's decision would immediately be quashed by the Supreme Court. We wish to be perfectly clear in this matter. We have no sympathy with Indian traders, and we should be glad to see an end of Indian trading. We would support the most drastic restrictions at the port of entry, and would go so far as to favour no fresh licences being granted to Indian applicants. But to decline to renew a trading licence in the case of Indians who have been allowed to settle in the country, who have been conducting their businesses in a perfectly legitimate manner for years past, and who have invested their capital in commercial enterprises on the strength of the licence to trade, is to do something which conflicts with the laws of all civilised nations, and with the most elementary notions of justice. We hope that stringent instructions will be issued to Licensing Officers to prevent a repetition of the Ladysmith scandal; otherwise, Natal will gravely embarrass the Imperial Government in its relationships with the people of India.

The Ladysmith Board's decisions were eventually upset by the Supreme Court, on a technicality. The Chief Justice said that "it was certainly extraordinary that any Court, sitting as a Court of Appeal, should decide a question in appeal without having before them all the records that were available. Apparently, they decided the matter without having the records." He concluded by remarking that the proceedings seemed to be of the gravest irregularity, and should be set aside. It was ordered that the appeal should be commenced *de novo*. Both the *Natal Mercury* and the *Natal Advertiser* condemned in unmeasured terms the action of the Licensing Board, agreeing that it was calculated to bring the fair name of the Colony into disrepute, the latter journal going so far as to assert that the decision of the Supreme Court afforded substantial relief to the aggrieved Indian traders. But it did nothing of the sort. "The Ladysmith Board sinned indecently, and it was the indecency that the Supreme Court was able to punish; but had the Board sinned decently, as many another Board has done before now [and since] in

Natal, the sin itself would have escaped punishment, not because the Supreme Court is less willing to punish sin, but because it has been rendered powerless by the Legislature."* There was nothing, indeed, to prevent the Ladysmith Licensing Board hearing the appeals *de novo*, as ordered by the Supreme Court, with all the records before them, and—again upholding the Licensing Officer's decision, a procedure that could not be disturbed by the Supreme Court. That, in fact, is exactly what the Board did, on the 7th May, and the unfortunate Indian storekeepers were ruined at the stroke of a pen, and lost a considerable sum of money, in legal expenses, into the bargain!

(8). An even more scandalous case occurred at Port Shepstone, where a certain M. S. Vahed was refused the renewal of his licence. Before the Licensing Board, the appellant's counsel was refused his application for a copy of the Licensing Officer's reasons for refusal and a copy of the record. On cross-examination, the Licensing Officer was brought to admit that the books were well-kept and that the Sanitary Inspector had given a good report. His initial reason for refusal was that the applicant had made a compact with his creditors and was paying 9*s.* in the £. He thought (tell it not in Gath, whisper it not in the streets of Askelon!) that "*the applicant was not a suitable licence holder in that civilised and respectable community!*" The foregoing is the textual expression used by the Licensing Officer. This extraordinary explanation was, amazing to relate, accepted by the Board as amply sufficient. The real facts of the case were these. The applicant was the representative of a licensed firm that had been in existence for the previous 15 years. The refusal would deprive him of the means of obtaining a livelihood for his wife and children. He was an elderly man and had the best of his life behind him. He acted as the Imam of the local Mahomedan congregation, who were not many, but who were entitled to his services for the advancement of their spiritual welfare. He had carried out his priestly duties to the entire satisfaction of his congregation. Thus, by refusing his licence, they would be deprived of his spiritual counsels and he of his livelihood. In regard to his composition with his creditors, finding that he could not, by reason of the distressful times, pay them in full, he honestly approached them and they, believing in his honesty, accepted a compromise. A dishonest man would have sought the protection of the Insolvency Law and defied the creditors. Vahed preferred, since he

* *Indian Opinion*, April 20, 1907.

could not pay all, to pay what he could. The refusal of the licence would deprive his creditors of the 9*s.* in the £ which he had offered to pay and which he would be able to do if he obtained the licence. It was robbing the creditors of 9*s.* in the £ if it were refused. A petition was read, signed by the Mahomedan community and another by 28 European residents, in favour of the licence. The Board's reply was in the following terms :

The Board is *unanimous* in its decision that the action of the Licensing Officer should be upheld and the appeal is dismissed without costs.

The decision not to grant costs against the poor old man was an exercise of real charity and self-denial !

(9). Take now the case of Mr. M. A. Goga and two other traders of the town of Ladysmith. The principal reason alleged against each appellant was that he was unable to keep books in the English language himself. In the case of Goga, who was represented by one of the leading advocates of Natal, Mr. Wylie, *K. C.*, now a Member of the Legislative Assembly, the appeal was upheld. In the other two cases, where the appellants were unable to afford the services of eminent counsel, the appeals were refused. In the case of one of them, the Licensing Officer gave, as additional reasons for refusal, that " the man was not capable. He was getting old and his appearance was not good. He had doubts about giving the licence last year. He also said that Benne was a man of the labouring class *and he ought to be on a farm and not keeping a store* !" Here, then, is a case where the Licensing Officer actually went so far as to decree authoritatively what occupation a man should, in his opinion, follow !

The Natal Mercury commented as follows upon the Goga case :

In stating the salient facts of Goga's case, as reported in his appeal to the Town Council of Ladysmith, we ask the reader to bear in mind that Ladysmith is one of the towns in which the anti-Asiatic agitation was worked up to a white heat a few months ago. What, then, are the reported facts ? The father of Goga had been trading in Ladysmith for 25 years, and on his death Goga continued the business in the same premises, his own trading career extending over 17 years. The premises did not belong to him at one time, but to a European residing in Newcastle—another town in which there has been a strong anti-Asiatic campaign. The point to be noted here is that a European found it profitable to let his property to an Asiatic, whilst the community in which he lives are supposed to be opposed to Asiatic trading. In 1902, the Town Council caused Goga to spend £ 5,000 in erecting a building which they would approve as suitable for licensing. In this way the rateable value of the town, and the amount of the rates accruing to the Corporation, were increased, at the Asiatic's expense. Ladysmith has taken the Asiatics' money, and the people of Ladysmith now clamour to be rid of the Asiatics. Last year, Goga sold the business, but not the premises, to a gentleman of the Corporation—the gentleman who, for some time prior to November last, was Mayor

of this anti-Asiatic town. The Indian's stock was "sold" to this gentleman for £6,000, and the transaction consisted in the passing of a bond to the Indian for the amount. Thus, the Mayor was the Indian's tenant, and the Indian held a bond over the Mayor's stock-in-trade. About the time that the Mayor retired, namely, November 5, three-fourths of the stock was handed back to the Indian, who then resumed the business. The goods were originally purchased by the Indian from (amongst others) three of the leading firms in West Street, Durban, whether for cash or on the extended credit which Indians are said often to receive from European firms, does not appear ; but, in any case, three of the leading firms in Durban, where a good deal of anti-Asiatic sentiment is prevalent, found it worth their while to do business with Goga. That is not all. The customers of Goga, in anti-Asiatic Ladysmith, were Europeans to the extent of 95 per cent, and his remaining clientele were 'little bit Indian, little bit Kaffir'. The story of Goga, therefore, is that he begins business in premises let to him by a European, buys his goods from Europeans, sells them to Europeans, builds expensive premises to conform with European-made law, becomes for a time a European Mayor's landlord and bond-holder——and then, at the caprice of a Licensing Officer, is told that he must shut up his business.

He was permitted and encouraged to do business in Ladysmith. In order to retain his right to trade, he erected premises much more costly than he really wanted. He had no reason to suppose his right to a licence would ever be called in question, and he acquired valuable vested interests in the town. The licence for last year was taken out by the late Mayor, to whom Goga had "sold" his business. When he took the business back, in November last, he applied for the licence to be transferred to him from the late Mayor. That was just at the time when the anti-Asiatic agitation was rampant in the north of the Colony. The Licensing Officer refused the transfer, although, as far as one can see, Goga was not less qualified than he had been during the years in which he had previously held the licence. On meeting with this refusal, he discussed the position with the ex-Mayor, who said—according to the report—that he would get the transfer, if Goga would give him a present of £50.* The £50 was paid, and a few days later the refusal to transfer the licence was withdrawn, and the transfer granted. It is not suggested that the Licensing Officer altered his decision for corrupt reasons. The Licensing Officer's own statement is that 'he gave the transfer to help the ex-Mayor in his bond-business, as he came and begged him to do it so many times .....He was influenced by the ex-Mayor to assist him in his financial business.' The licence then current had only a few weeks to run. The Licensing Officer refused to renew it for the present year. The ground of refusal was the applicant's personal inability to keep his books in English. He was no less able to do so in January than he was in November, when he obtained the transfer, nor in the previous years during which he occupied the splendid premises which he had specially built at the Licensing Officer's behest, in order to secure the right to trade. Moreover, the law does not prescribe that a trader shall personally be an expert book-keeper in English. He can employ a book-keeper for the purpose, and this had been done by Goga. Indeed, it is said that the Licensing Officer did not see the books, and that they were perfectly in order, according to law. In these circumstances, we feel bound to say that the Town Council acted equitably in over-ruling their Licensing Officer, and deciding to grant the licence.....In the case of Goga, he had unquestionably become possessed of vested interests, which no equitable authority could permit to be arbitrarily taken away from him. To legislate against the granting of new licences is one thing; to suppress a trading business which we have suffered to grow up is quite a different thing. The European cannot,according to any rule of justice, make use of the Asiatic for his own advantage--trade

** Indian Opinion* of March 2, 1907, charged the ex-Mayor with blackmailing Mr. Goga.

with him, and encourage him to become established in the land—and then abruptly ruin him, and turn him adrift as an outcast.

The writer makes no apology for making the foregoing lengthy quotation, for, after all, it presents a concise epitome of the Indian trading question in Natal—except that the Indian traders are usually not so fortunate as Mr. Goga, in securing redress of a violent perversion of justice.

(10) At Maritzburg, a free Indian, named P. N. Chetty, was refused the renewal of a licence to trade, unless he consented to remove to the "Indian quarter" of the town. This he declined to do, as his clientele would disappear. He, too, was accordingly ruined.

(11) Here, also, the firm of Tajoodeen Mahomed, Ghouse, & Co., were refused a licence to trade because the Licensing Officer required them to keep their books after the manner of a Chartered Accountant. Councillor Kelly, one of the members of the Town Council, sitting as a Court of Appeal, even went so far as to say that he "thought it a very great hardship that a man, after eighteen years in business, should have his licence taken away, because his books were not kept on chartered accountants' lines", in which remarks another Councillor concurred.

(12) At Harding, the renewal of a licence was only granted conditionally upon the appellant's agreeing to dissolve the partnership into which he had already entered. This he was obliged to consent to, as, on the strength of previous verbal promises to renew the licence, on the part of the Licensing Officer, he had ordered large stocks of goods from Durban. The proviso insisted upon by the Licensing Board was obviously in restraint of trade, but the unfortunate applicant had no alternative but to comply. He could, undoubtedly, have re-entered into the partnership immediately afterwards, but that would merely have postponed the *coup de grâce* for a year.

These are a few of the cases reported by the newspapers of Natal in the early part of 1907. They created such a public scandal that the Ladysmith Licensing Officer, who had issued the famous notice, refusing renewals at the end of that year, was quietly advised to withdraw the notice, which he promptly did. The Government, too, were not insensible of the dangerous position into which they were drifting, and which was being loudly proclaimed by question after question in the House of Commons. It may here be remarked, parenthetically, that not a single question on the subject was put by any member of the Natal Parliament. But the Government, in order to prevent the frequency of appeals, which

they appeared to regard as a nuisance, and which were usually conducted on behalf of the Indian traders, issued Rules making it a condition that, in all future cases where appeals were noted, deposit of the sum of £12-10s. would be required. Matters remained more or less quiescent until the present year, when there appears to have been a tendency towards a recrudescence of the old trouble.

(13) Last March, at Dundee (a notorious anti-Asiatic centre), Mr. Amodji Bemath was refused the renewal of his licence, because he had recently made a composition with his creditors, and although it was known that it would be impossible for him to fulfil his obligations towards them unless he secured the licence that would have enabled him to earn sufficient for that purpose.

(14) At the same place, Mr. Sujatkhan was similarly refused because he had committed the heinous offence of taking a partner, owing to his own advancing years. With such a precedent, it is only a matter of time for some intelligent and enterprising Licensing Officer to refuse the renewal of a licence to an Indian trader who has just been favoured with a male heir, on the ground that, eventually, the latter may succeed to the business!

(15) Mr. M. A. Goga, of Ladysmith, has once more been the object of attack. Until last month, his brother-in-law occupied a store, for which he had a licence, belonging to Mr. Goga. When the brother-in-law retired from business, Mr. Goga, who not unnaturally wished to preserve his interests, applied to have the licence transferred to him. The application was refused, on the ground that the Licensing Officer was not issuing any new licences to Asiatic traders or allowing existing licences to be taken up by new firms. Of course, the licence in question was not a new licence, and equally certainly, Mr. Goga's was not a new firm, so that the Licensing Officer's reasons were doubly bad. The transfer was objected to by 83 heads of local firms, store-assistants (the independence of whom is not beyond question) "and others", because Mr. Goga already had a store licence and should not have another (a fatal objection in the case of the large European wholesale-retail firms), because an increase in the number of retail licences was undesirable (none was contemplated), *because it was the custom gradually to wipe out Indian licences* (a naive confession, surely!), because the brother-in-law himself was retiring from business (thus affording an opportunity for the infliction of a commercial injury upon Mr. Goga), and because there were already more than enough Indian licences and an increase of the coloured population was not in the best interests of the community or of the Colony at large (surely an irrelevant and entirely

inadequate reason, seeing that Mr. Goga was a very old resident of the town). The transfer was supported by 144 Europeans (mainly railway employees and their wives). Thus, whilst Mr. Goga's trade-competitors were anxious for his ruin, the local European consumers were equally anxious to retain his services. The application was refused. It will be observed that all the above refusals relate to existing licences.

But there are not a few Europeans who are heartily disgusted with the injustice wrought by this latitude afforded to the European competitors of Indian traders to rob the latter of their livelihood without compensation. The late Mr. Labistour, when still a Member of the Durban Town Council, and before he became Attorney-General, once walked out of a Council Meeting, when the Council was sitting as a Court of "Appeal" in an Indian licensing case, saying that he refused to take any part in that "dirty business."

Mr. Ramsay Collins, too, one of the proprietors of the *Natal Mercury* and also a Member of the Durban Town Council, said, on a similar occasion, that he

> did not wish to hide his own personal opinions—divergent as they might be from those of his colleagues. He considered that the policy of the Legislature in constituting the Town Council a Court of Appeal was ill-advised. It appeared to him decidedly unjust that man could not appeal to the Supreme Court, where the question at issue could be judged by trained judges, and, if necessary, taken to the Privy Council.

Another potent reason for the recrudescence of these attempts to eliminate the British Indian traders of Natal is the refusal by the Imperial Government, last year, to assent to the two amazing licensing measures passed by the Natal Parliament, at the instance of the Government of the Colony. The first of these was a law to stop the issue of new trading licences to Asiatics after December 31, 1908; the second, to stop the renewal of all existing Asiatic licences after December 31, 1918, with nominal compensation. This was a deliberate attempt to "wipe out" all Indian trade within a period of ten years! Not even Natal-born Indians could have the right to trade in the future; no trading by Indians could be done even with members of their own community. The idea was very simple. No account was taken of the fact that, by the year 1918, there would probably be no Indian licences for which compensation would have to be paid, by reason of the satisfactory process of decimation annually carried out through the agency of the existing Licensing Act. Fortunately, as has been stated, the Imperial Government rejected the measures, to no-one's very great surprise, and thus the Indian traders have yet another brief respite before it is sought to commit

the next act of depredation against them.' Nor need it be thought that these incursions upon the Indian traders' rights are due to his commercial dishonesty. On this subject, Mr. Neame says:

> Sometimes charges are made against the Indian traders of dishonest practices and suspicious insolvencies. These, however, are not substantiated and should not receive credence. The greatest compliment to the upright dealings of the Indian is the fact, admitted publicly both in Pretoria and Durban, that the Indian can get credit from the wholesale firms when white traders are refused. *

Neither is the reason of the Indian trader's success solely that of commercial probity. It is equally due to the fact that he is a good business man, thrifty, sober, and courteous. The following letter by a correspondent signing himself "Zululander" appeared not long since in the *Natal Mercury*:

> We are continually hearing of this (the Asiatic) question, both through the medium of the Press, and on public platforms. From the consumer's point of view, there is a great deal to be said in favour of the Arab (Mahomedan Indian) store-keeper, especially in country districts. In the first place, he makes storekeeping his especial study. He is not part storekeeper, part farmer, part money-lender. He is, above all, extremely obliging, and no trouble is too great so long as a customer can be pleased. In this he is in striking contrast to great numbers of European store-keepers who, with many irons in the fire, cannot spare the time or have not the inclination, to put themselves out to please a customer. As for not keeping their books in order, I have recently been assured by the Chairman of a Licensing Board that in this respect they are quite up to the standard of the average European store-keeper, and, indeed, judging from individual experience and from personal knowledge of others, I should say they must be bad indeed not to reach that low standard. Taken all round, then, and looked at from the unfortunate consumer's point of view, it is the European's own fault if he cannot retain his customers. He should mend his ways, and use his privilege of a store-keeper, not as a foil of secondary commercial moment, which too many do, but learn that at all costs people will buy in the cheapest market, and will go far to have their wants satisfied with that thoroughness which follows on a close attention to business principles and business detail. It is the want of competition amongst themselves which has so far encouraged the Arab trader to enter the lists against his more favoured rival. It is only the slipshod store-keeper, the man who expects to get exorbitant profits with the minimum of trouble, who is content to keep old stock, and to foist it on a long-suffering neighbourhood, who need fear. Any sound business-man, with up-to-date ideas, will more than hold his own. The writer is only voicing the opinion of very many who are now dependent on this same slipshod, avaricious type when he says that an extension of the better class Arab store-keeper into these benighted regions would be hailed as a boon and a blessing.

From this it is clear that the Indian's opponent is not to be found in the European consumer, who, in fact, is usually economically dependent upon him. It suffices, as a commentary upon the above flattering tribute, to say that, as to the Province of Zululand, which is, to-day, an integral part of the Colony of Natal, the Indian trader and hawker are prohibited from entry.

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* *The Asiatic Danger in the Colonies*, p. 51.

Indentured Immigration.

The principal law relating to indentured and ex-indentured immigrants and their descendents is Law 25 of 1891. It has received additions and amendments in the shape of Act 17 of 1895, Act 1 of 1900 (together with Regulations under these Acts), Act 2 of 1903, and Acts 39 and 42 of 1905. The remarkable thing about this mass of legislation is that, generally speaking, it appears, superficially, to safeguard in many directions the welfare of the immigrant labourers. Upon closer investigation, however, it will be found that something perilously akin to a condition of temporary slavery prevails, at least, with many of the employers. Indeed, that is exactly how the system was once described by the late Sir William Wilson Hunter, and it must be placed to the credit of the Indian community of Natal that it is unanimously and totally opposed to the principle of indentured labour, and, as a consequence, to the further introduction of covenanted labourers into the Colony. The labourers are recruited for the tea, coffee, and sugar-plantations, the railways, government and municipal services, the coal-mines, agriculture and domestic employment. The resident Indians regard the system as a thinly disguised form of slavery, entirely foreign to the spirit of Indian thought and economic doctrine, and colonial feeling is largely hostile to its continuance, on economic grounds. Its successful recruiting depends almost entirely upon the helplessness and hopelessness caused by prolonged dearth and, often, disease in the labourers' native land. The best recruiting agents are, undoubtedly, famine and want—agencies akin to those that drove Englishmen in large numbers to join the Georgian armies in the Eighteenth Century, to fight in wars wherein they had not the slightest interest; agencies similar to those which have, in the main, driven half the population of Ireland away from the country, mostly to the United States; agencies of like nature to those which compel many parents in Eastern and South-Eastern Europe to sell their daughters into what is worse than slavery.

The system is abhorrent, by reason of its evil effects upon European and Indian alike. Nowhere else in South Africa is the customary mental attitude of the European towards the Indian so contemptuous. He seems not seldom to have been brought up in the tainted atmosphere of the Southern States of the American Union, and the Indian contract labourer is often, to him, a being of a sub-human order. With the employer, the tendency is to treat the labourer as a mere chattel, a machine, a commercial asset to be

worked to its fullest capacity, regardless of the human element, careless of the play of human passions. The system lends itself to heartlessness and cruelty, if not on the part of the employer then on that of his sirdars and overseers. It is hard to believe that the average employer of indentured labour has risen above the petty tyrannies, the multifold temptations, the de-humanising tendencies, inherent in it, though quite probably many employers are unaware of the hardships inflicted upon the labourers through the harshness of their subordinates. And it is impossible to believe that the majority of cases of desertion, either singly or in a body, are due to the natural depravity of the labourers. It is a physical and a social impossibility for the Protector of Indian Immigrants (their official guardian), or the estate Medical Officers, to completely control abuse on the part of employers or their agents. The petty persecutions and constant injustices with which the system, at least as it is developed in Natal, abounds can never be revealed to an alien official, however great his sympathies may be. Only an Indian, thoroughly trusted by the labourers, great-hearted enough to act as their advocate, completely independent of the employers and their powerful organisation, the Immigration Trust Board, with full powers of entry and action, would be able to elicit the facts at the back of what Mr. Barnett, the late Superintendent of Education in Natal, once scornfully called the "piggeries" on some of the Natal estates, the gigantic suicide-rate amongst the indentured Indians, and the cases of appalling cruelty that now and again reveal themselves from behind the menacing veil of mystery that shrouds the present inarticulate and chaotic mass of misery.

The writer has no wish to offer any sweeping condemnation of all employers of labour alike. That would be both unwise and unjust. On such estates as those of Sir James Liege Hulett, the Hon. Marshall Campbell, and Mr. Hindson, to mention only a few of the best-known employers of labour, the indentured labourers' material welfare is far better than it would have been had they remained in India. As a rule, the largest employers of labour, by virtue of the very extent of their industrial or agricultural operations and enterprises, are differently and better qualified for the responsibility and care exacted by this class of labour. But these employers are, in fact, the worst enemies of the Indian community, for it is owing to their humane treatment of the Indian labourers assigned to them that any good thing whatever may still be said of the conditions of the system. If all employers of labour had been merely selfish seekers after wealth, entirely dis-

regardful of their duty towards those who produced it for them, a crisis would have been precipitated long since, and the system would already have received its death-blow. Nor is it alone the conditions that obtain, on many of the estates or with many of the employers, that are abhorrent. The system itself reeks with injustice to all those who are subject to its powerful and far-reaching influences, whether in the capacity of employer or employed. Because the slave wears a gold collar round his neck and is clothed in silks or satins, he is no less a slave; and because his employer treats him thus, the former is no less a slave-owner, though, certainly, he will not be slave-driver. It may even be admitted that the conditions of labour in Natal are less hard than in some other places. But, that admitted, it does not take away from the true nature of the system.

Indenture is a contract of a peculiar nature entered into, not under the common law of the country, but under a Statute specially devised to meet the case. The labourer never knows to what employer he is to be allotted, being required to enter into his contract in India, and to consent to allotment to any employer that the Protector may choose for him. Between the master and the servant, under such a law, there can be no human relationship, save such as may often be observed between an owner and his cattle. And, as a matter of fact, the Indian labourer is often regarded by his employer as of less account than a good beast, for the latter costs money to replace, whereas the former is a cheap commodity. The system, too, is unfair in its incidence, for the balance of advantage in the contract of service lies always with the employer and never with the employed. So long as breach of contract on the part of the labourer is *always* (and on that of the employer *seldom*) regarded as a criminal and not as a civil matter, it is impossible to regard indenture in any light other than that of a system perilously approaching one of servile conditions, and this quite independently of what may obtain in other parts of the world, where conditions may be better or worse.

So far as the employee is concerned, his difficulties commence before he leaves India. In his innocence, he believes all the alluring tales of a South African El Dorado told him by fluent recruiting agents ("touts," as they are known in South Africa), whose income varies with the number of labourers secured. The labourer has little or no means of discovering the exaggeration of these tales. He is usually an extremely ignorant man, and anything, for the moment, is better than his then condition of penury and starvation. It is true that

he is legally supposed to have a complete knowledge of the terms of the contract of labour upon which he enters, and which is required to be carefully translated and interpreted to him, but what can a simple peasant possibly understand of a highly technical document? What can he know of its contents, beyond the barest and haziest facts, unmodified by contingent conditions that every one in Natal knows and understands? What can he know of the Immigration Laws, under whose operation he will come? What can he know of the social conditions existing in Natal, which place him for ever in the category of the politically disinherited and the socially ostracised, whereas, in his native land, he is a free man, and, as we are assured, the object of the untiring solicitude of a paternal Government? When he arrives in his new home, he encounters totally new conditions of life, over long hours of toil, most arduous drudgery, frequent ill-usage, climatic differences, insufficient food-supply, lack of family life, temptations to immorality, petty fines and punishments. One of the worst features of the system is the introduction of women in the proportion of forty to every hundred men, *and who are not necessarily the wives or female relatives of these men.* It is obvious that the almost inevitable result with very many of these women, whatever might have been the original intention of the framers of the law, is that they are tempted to barter their virtue, affording, perhaps, a guess at the origin of the term "coolie maries," as applied to them; and, to-day, venereal disease is working havoc amongst the indentured labourers. Conditions of the grossest immorality must necessarily prevail, and these are added to by the practical non-recognition, by the law, of Indian religious marriages entered into prior to the completion of the contract (and even afterwards) unless registered with the Protector. And even such registration as is provided for is no safeguard against immorality and intense hardship, as will be observed from a case that will presently be quoted. It is almost unnecessary to draw the logical conclusions from the above facts, and to comment upon the effects of these abnormal and unhealthy conditions of life upon both the physique and the character of the children of the immigrants, without social or religious sanctions to direct the latter to a higher view of life, and with few opportunities of tuition for their children. It is plain that these must sooner or later degenerate in moral fibre.

Suicides Amongst Indentured Indians.

One of the most significant phenomena associated with the system is the enormously high suicide-rate amongst the indentured labourers. Singularly enough, too, it is one that has scarcely been

touched upon directly by the Protector in his Annual Reports for the last five years. He has, apparently, not been concerned with the great disparity of suicides amongst the indentured labourers as contrasted with the free Indian population, composed of ex-indentured labourers and their descendants. Perhaps some reason may be found for the many singularities that arise, in a contemplation of these phenomena, from the amazing story of cruelty and injustice that is indicated by the examples that will presently be given. Meanwhile, let us face the facts of suicide. In the year 1906, the figures for indentured Indians were 27, and for free Indians (excluding the trading community, in which suicide is practically unknown), 13; in 1907, they were 26 and 15 respectively; and in 1908, 18 and 14 respectively. These figures however, tell nothing in this form. They meant in 1906, a suicide-rate per million of 661 and 213 respectively; in 1907, 628 and 244 respectively; and in 1908, 414 and 234 respectively. What this really signifies may best be shown by a comparison with figures showing the suicide-rate per million inhabitants in India. This we find, from official statistics, to have been, in 1904, 33·5, in 1905, 40, and in 1906, 39 or averaged for the three years, 37. Tabulating the figures, and comparing with those for free Indian Immigrants and indentured Immigrants, we find something as follows:—

	T. I.*	F. I.†	I. I.‡	
1904 ...	33·5	89	469	per million.
1905 ...	40	249	582	,, ,,
1906 ...	39	213	661	,, ,,
1907 ...	—**	244	628	,, ,,
1908 ...	—**	234	414	,, ,,

The difference is startling; during the three years for which a comparison can be made, *we never find the suicide-rate amongst indentured Indians in Natal to be less than fourteen times what it is for the whole of India, in any one year*, whilst normally, *it is at least twice, and sometimes even five times as high as amongst the free Indians of the Colony!* Most of the Indians brought under indenture to Natal come from the Presidency of Madras; comparatively few come from the Calcutta side. The average suicide-rate per million for the three years, 1904-6, in

* T. I. ...Total Indian suicides per million inhabitants in India.
† F. I. ... ,, ,, ,, ,, ,, free Indians in Natal.
‡ I. I. ... ,, ,, ,, ,, ,, indentured Indians in Natal.
** Figures unavailable.

Madras, is 45, and, in Bengal, 58. Contrast this with 551 per million, the average for the last five years, amongst the indentured Indians of Natal, and we find that *it is more than twelve times the suicide-rate in Madras, and nearly ten times that in Bengal*!

That Indians are amongst the people least prone to take their lives may be shown, statistically, from the following figures :—

		Per million.
Suicide-rate all India (average 1904-6)	...	37
Do. Madras (do.)	...	45
Do. Bengal (do.)	...	58
Do. England and Wales (1905)	...	104
Do. European population of Johannesburg (1906).		370
Do. Paris (recently)	...	400
Do. INDENTURED INDIANS IN NATAL (average 1904-8)	...	**551**

The Indian communal leaders have again and again sought an explanation of these terrible figures, but none has been forthcoming. Again and again an inquiry has been pressed for, but without avail. The figures demand the narrowest scrutiny and the suspicions aroused by them the most searching investigation, with a view to elicit the true circumstances, so that the public may know why the suicide-rate amongst Indians serving indentures is twice as high as amongst the same class of Indians who, as "free" men, have often to pay a minimum taxation to the State of £7 per annum, upon an average monthly income of twenty shillings, rent in addition to this, are obliged to pay for their own food and that of those dependent upon them, and have medical and clothing expenses as well.

The Indenture Laws.

Turn, now, to the Indenture Laws themselves, and the Rules and Regulations subsidiary to these. The capital Law, of course, is Act 21 of 1891. Section 30 provides that, if an Indian immigrant under indenture be found beyond one mile from the employer's residence without written leave, he may be arrested, provided he is not on his way to lodge a complaint before the Divisional Magistrate or the Protector, and may be taken back to his employer, all charges incurred by reason of such return being deducted from his wages. Should the Magistrate, upon inquiry, be of opinion that the complaint is frivolous, a similar deduction may be made. It is frequently alleged that indentured Indians, bearing written leave of absence, have been arrested by police, who have torn up the passes, for a reward is given for the arrest of deserters like that given to the captor of a "run-away slave"

in the Southern States of the American Union in the old days. Deductions for the reasons above-mentioned may not exceed half the monthly wages.

Section 31 makes it lawful for the Protector, or any Magistrate or Justice of the Peace, or any Police Constable, or the owner or occupier of any land or house (including his servant), to stop any immigrant found upon or about such house or land and demand his certificate of discharge or his written leave of absence. The presumption, therefore, is that every Indian immigrant, whether free or covenanted, is a deserter. Should he fail to produce the document, he *must* be taken forthwith to the nearest Magistrate, who, unless he is satisfied that the immigrant has a certificate of discharge or a written leave of absence, *shall*, for a first offence, impose a fine of 10*s*. (approximately a month's wages) or inflict the punishment of imprisonment, *with hard labour*, for any term not exceeding seven days (in practice it is never less than seven days), for a second offence, similar imprisonment for fourteen days, and for every subsequent offence, 30 days. At the end of this period, the immigrant is to be returned to his employer at his own expense.

Penalties are imposed for unlawful absence from work, in the shape of deductions for each day's absence, the monthly maximum of such deductions not to exceed the monthly wages. In addition, where the number of such absences exceeds 25 days in any one year, double the number of days are to be added before the term of the contract is held to have expired.

In case of sickness, the employer may deduct from the wages at the rate of fourpence per day during the first and second years of indenture, and sixpence per day during the remaining period. Frequently, however, it is charged against employers that they deduct the full sixpence per diem, whatever the length of service, and some unscrupulous employers, so as to be rid of the responsibility of caring for sick labourers, and in order that they may deduct a larger amount from the monthly wages, are said actually to have the sick men or women arrested for absence without leave, when, of course, the State has to bear the cost and the employer derives the benefit. In regard to such allegations it is extremely difficult to procure direct evidence, by reason of the peculiar position of the labourer.

Heavy punishments are inflicted for absence from roll-call, neglect of work, disobedience, gross-insolence, fraud, deception, damage to the employer's property—but it is questionable whether,

in regard to many of these offences, the penalties are explained to the labourers at the time of entering into the contracts.

Section 101 is, perhaps, the most amazing of all the amazing sections of this Act and its numerous progeny. It reads as follows:

When all or a large number of the Indian immigrants employed upon any estate or property shall absent themselves from their employment without leave for the purpose or on the pretence of making any complaint against their employer, such Indian or any number of them shall be liable to be brought before any Court, and, on conviction, to be punished by fine not exceeding Two Pounds Sterling (three to four times the amount of the monthly wages), or by imprisonment for any period not exceeding two months, with or without hard labour, whether such complaint shall or shall not be adjudged to be groundless or frivolous, *and notwithstanding that such complaint may be successful.*

Commenting upon this provision, the *Natal Advertiser* says:

This means that, even if a number of Indians carry a gross complaint against ill-treatment to the Protector and succeed in getting compensation and redress, they are liable to two months' hard labour for having dared to seek justice without first obtaining permission! This, we take it, is the most scandalous provision extant on any British Statute-book, anywhere. What if these unfortunate wretches have to ask permission to go to the Protector from the very man they propose to complain against? Is he at all likely to grant it? And, if not, are they to endure on in patience? *This section alone is enough to damn the whole Act.*

Yet, under it, a large number of immigrants were sentenced for daring to successfully complain regarding gross ill-treatment at one of the principal Collieries in the Ladysmith District.

Act 1 of 1900 amends the law of 1891. Section 2 makes provision for the manner in which an immigrant, who has gone to the Protector to make complaint, shall be returned to the employer *before the complaint is investigated.* Should it appear that the complaint is frivolous or unfounded, the cost of his return is deducted from his monthly wages, and, *in addition*, he is liable to prosecution and punishment for illegal absence. The following is an exact copy of the printed form which, when completed, is addressed by the *Protector* of Indian Immigrants (that is the official's style and title) to the employers whose labourers have gone to him to make complaint:—

PROTECTOR OF INDIAN IMMIGRANTS' OFFICE.

Durban.

Dear Sir, ...190 .

With reference to the Indian,.....No.....*who came to complain* on the .... instant, I have to inform you, in terms of Section 2, Act 1, 1900, that the Indian was NOT JUSTIFIED in coming to me to complain, *and you are at liberty to take him before the Magistrate and charge him under section 35, Law 25, 1891*, and to deduct the cost of returning him from any wages now due or which may fall due.

I have the honor to be,
Sir,
Your obedient servant,

To..... .....

Protector of Indian Immigrants

So that the official appointed by the Government of Natal to watch over and protect the interests of the Indian labourers entrusted to the public care of the Colony actually undertakes the role, not of protection, but of prosecution, of his wards ! Later, it will be found that he is also at times their persecutor. But the amazing effrontery of the above document lies in the fact that it purports to be written in terms of Section 2 of Act 1,of 1900. Upon reference to that section, it appears that the only information that the law requires the Protector to give the employer is "that the complaint was frivolous and unfounded, or otherwise that the Indian Immigrant was not justified in leaving his employers' premises without permission." He is *not* required to give gratuitous legal advice to employers who are supposed to know the law, and who, in any case, can secure legal assistance in the ordinary manner, by paying for it. So that, the Protector, in practice, becomes the legal adviser of the employer, whilst the poor labourer suffers unaided and unrepresented.

Section 3 of this precious Act, however, goes still further. Take the case where a labourer has been brutally ill-treated by an employer, and bears the marks upon his body. He comes to the Protector, who finds that he is not badly enough injured to be sent to hospital. The Protector is empowered to order him to be sent back under escort to his employer.

> Should any Indian Immigrant decline to return to his employer when so directed, as provided in the preceding Section, he shall be deemed guilty of contravening Section 31 of Law No. 25, 1891, and shall be dealt with accordingly, and every subsequent refusal shall render him liable to further punishment under the same Section (!).

So that the Protector, far from affording protection, is authorised to (and does) shield himself behind the law by having the recalcitrant and injured labourer haled before a Magistrate who, before he can even investigate the man's complaint, is bound to commit him to gaol with hard labour for a given period!

But even this is not enough. Complaints having evidently become too frequent to be convenient, the Government have actually issued Rules placing obstacles in the way of an Indian complainant's going to the Protector, who, he is told in India, is to be father and mother to him. No indentured labourer may go to complain to the Protector, without first obtaining a pass to do so from the Magistrate of his Division ; otherwise he is liable to arrest and return to his employer. If the Magistrate, having taken down the man's deposition in writing, is satisfied that he is acting in good faith, that is, that he has a *prima facie* case, he is required to issue such a pass. If the labourer fails to satisfy the Magistrate and does not make good his

complaint, "he shall be deemed to have contravened these Rules" (for which penalties are, of course, provided). Now, in the first place, an obstacle is placed in a complainant's way to proceed to the Protector in order to lay his complaint. The Protector is comparatively independent of employers, though, when he goes on his tour of inquiry, he often becomes their guest. But frequently, the Divisional Magistrate, born and bred in an atmosphere of semi-slavery and tainted with the Colonial prejudice against and contempt for the indentured labourer, and perhaps himself an employer of contract labour, may be a friend of the particular employer concerning whom complaint is made and who may be in a position to bring social pressure to bear. Suppose that such a case occurs, what chance of redress has the poor complainant? Take the case where an employer ill-treats a labourer. The man is on his way to make complaint, when he is arrested by a Kaffir policeman, who takes him back to his employer, with what results may be better imagined than described. Should he succeed in reaching the local Magistrate unmolested, he is required to satisfy that functionary of his having a *prima facie* case against his employer. If the Magistrate happens to be a friend of the employer, a powerful man in the district, he may refuse to issue the pass authorising the man to complain to the Protector, and may return him under escort to the employer, the complainant having to bear the cost of such return. Should the latter from fear or ignorance, fail to go to the Magistrate, but proceed direct to the Protector, that official's first demand is for the pass to make complaint, and as this is not forthcoming, the unfortunate man is brought before the Durban Magistrate and convicted for breach of the above Rules. Suppose, however, that he has done all that by law he was required to do, and has safely arrived at the Protector's office. The Protector, having taken the man's written deposition, and before investigation, will order the man's return to his employer. Knowing what to expect there, and realising that his complaint is almost certain, in these circumstances, to be ascribed to causes other than the real ones, he positively refuses to return. He is then sent before the Magistrate by the Protector, and is convicted and sentenced as previously described. Even then he may be returned to his employer at his own expense, and may find his complaint unredressed, and his last condition worse than his first. Has all this nothing to do with the heavy suicide-rate? Men have been known to attempt suicide in the Magistrate's Court rather than be made to return to their employers! And there has been only the most perfunctory inquiry.

Some Flagrant Cases.

The following are all well-authenticated cases, taken from magisterial or other public records or from newspaper reports:

(1) On the 11th July, 1906, an indentured Indian, Ragavalu, No. 105,396, was charged before Mr. B. Hodson, the Acting Second Criminal Magistrate, Durban, with attempting to commit suicide outside the Court-house on the 4th July. The Public Prosecutor stated that, on the last occasion when the man had appeared before the Magistrate, upon pleading guilty to the charge, the Magistrate had ordered him to be medically examined as to the state of his mind, and that the man had stated that he would sooner commit suicide than return to his present master, Mr. T. B. Robinson, of Cato Manor (the reader is requested to take note of the name of this employer, as it recurs frequently in other cases).

The District Surgeon's report was then read:

As requested, I report on an Indian named Ragu. This boy has lost the use of the left hand from an accident 12 months ago. In other respects he is well. I am of opinion he is of sound mind. He states that he cannot do work and will not return to his present employer. He states that he will commit suicide rather than return to his present employer.

Apparently, he was ordered to return to Robinson, hence the attempt at suicide. The Magistrate severely rebuked the Indian for making the attempt, sentencing him to 14 days' hard labour, whereafter he told the wretched man that, at the end of that time, he was to come to him (the Magistrate) "as I intend to go into his complaint". Before he went to gaol his deposition was taken. As he left the Court, the following statements are recorded:—

Accused: I have been *seven times* to the Protector of Immigrants, who has sent me to the Court.

Magistrate: What Court?

Accused: When I go to the Protector he sends me here.

Magistrate: Yes, but you live in the Umlazi Division, and if you had any complaint to make, you should have gone to the Magistrate at the Umlazi Court (it will be seen later how the Magistrate of that Court dealt with complaints).

Accused: Why did not the Protector tell me that?

The Protector had sent the unhappy wretch seven times before the Magistrate, under Section 31 of Act 25 of 1891, for refusing to return to his employer! It was stated that the Protector made no investigations into the man's complaints that he was unable to work on account of the injury to his hand, and that he had, *on a previous occasion*, attempted to commit suicide. So the man made two attempts on his life and threatened another if he were taken back to his employer!

(2) On the 16th July, 1906, an indentured Indian woman, named Dundhir Khulsam, charged Mrs. Robinson, wife of the afore-mentioned T. B. Robinson, in the Umlazi Court, with assault. It would seem that the woman had repeatedly gone to the Protector, together with another woman, to complain of ill-usage on the part of her employer, T. B. Robinson. On each occasion, she had declined to return, when ordered to do so, and had been dealt with under Section 31 of Act 25 of 1891. On the last occasion, on being taken back to the house of her employer, his wife brutally attacked her, beating the unfortunate woman with her fist upon the face, knocking her down, and kicking her. This evidence was given by the Kaffir messenger who was detailed to return the woman to her employer. The defence was one of "not guilty", yet, when asked whether she wished to give evidence on her own behalf, subject to cross-examination, or to call any witnesses, the accused declined to do so. The writer was present in Court on the occasion in question. The whole demeanour of the accused and her husband was characterised by callous indifference. Neither accused nor her husband (who was charged with assault upon a second woman) was arraigned in the dock, but both were accommodated with seats at the table, used by practitioners, facing the Magistrate. The latter made no comment upon the case, but inflicted upon the female accused a fine of £1. No alternative of imprisonment was imposed.

The indentured Indian, Ragavalu, for attempting to put an end to an intolerable existence, was sentenced to fourteen days' hard labour, meaning a loss of 14 days' wages, and the cost of return to his employer. For the first refusal to return, he was fined nearly a month's wages, with the alternative of imprisonment with hard labour. The European woman, proved guilty of a shocking and unprovoked assault, was fined £1, without any alternative of imprisonment. The inequality of the punishment will scarcely bear comment.

(3) During September of 1906, before Mr. Hodson, in the Durban Court, at the instance, on this occasion, of the Protector, a charge of assault was preferred against a European named G. Altsch. The complainant was an Indian named Gingamma. It was stated in evidence that, because the complainant had not got the food for the cows ready, accused had struck him and thrown him to the ground, where he had set his dog on to the complainant, who was severely bitten about the arms and back. He showed marks of severe handling. The accused man pleaded "not guilty", adding that he did not see the dog bite the complainant, but the evidence called by him in his defence did not support his statement. The

Magistrate found the accused guilty of the assault, adding that he was satisfied, from the evidence of witnesses, both for the prosecution *and the defence*, that the accused was present when the dog bit the complainant. In fining the accused thirty shillings, the Magistrate said that "*these Indians were constantly coming to the Court, either as complainants in assault cases against their employers, or as deserters on account of alleged cruelty and ill-treatment by their masters. This sort of thing must be stopped.*" The paltry fine inflicted, however, was not likely to do very much to stop "this sort of thing."

(4) On February 7, 1907, an employer named Warner appeared before Mr. Brunton Warner in the Durban Criminal Court, charged with assaulting an indentured Indian. The Magistrate said that "*his experience with the Indians was that, if these indentured men had not the protection of the law, their life would not be worth living.*" He imposed the nominal fine of £ 1, warning the accused that, on any future occasion of a similar nature, he would be severely dealt with.

(5) The following startling report appeared in an issue of *The Times of Natal* of March, 1907. The case is known as the Thornville Junction Case:

For some time an inquiry has been proceeding at the Umgeni Court, regarding complaints made by coolies of ill-treatment, and even torture, by two farmers, Messrs. Leasks, senior and junior, who reside near Thornville junction. Hitherto, we have not published even the bare charge, owing to the difficulty the authorities might have experienced in getting the coolies to make any sort of statement, they being in mortal fear of their masters. In fact, they could hardly be induced to say anything, unless a promise was made that nothing should be divulged, until the inquiry was completed. The inquiry has now reached its conclusion. Mr. Barter, the Assistant Magistrate, has instructed to hand the papers and his opinion upon the evidence to the Protector of Immigrants, whose business it is to decide whether the Leasks are fit and proper persons to have Indians in their employ, and also whether action should be taken in the matter.

There was a vast quantity of evidence given by the Indians, the general allegation being, summarised, that the two Europeans had been cruel to them, on the ground that they had not done sufficient work. *Two of the Indians are stated to have been tortured by being cooped up in a box for varying periods. The box in question is said to be six feet long, one-and-a-half feet wide, and one foot deep.* One Indian alleges that *he was kept in the box for eight days without food*, while another said that he was kept there for 48 hours without food. In the latter case the Indian alleges that *torture of a peculiarly acute and disgusting nature was practised upon him, the details of which cannot with decency be given.* The other Indians allege minor acts of cruelty and oppression. The defence put forward by the two Leasks is a general denial. In the evidence given by them, *they admit that there is a box on the premises such as the Indians allege they were tortured in.*

There is another phase of the case in which allegations were made of the Leasks resisting the Immigration Officer when dealing with the case. This has now been dropped by the authorities in view of an expression of regret by the Leasks at the

part they took in it.....At the close of the inquiry there was a repetition of the difficulty experienced early on in the case in regard to the fear of the Indians *to face their masters.* After the inquiry, the Indians were marshalled, preparatory to being sent back to their employers. They again expressed great fear, stating that *they would prefer to cut their throats rather than go back to the Leasks.* Ultimately, they returned to duty, one, however, being lodged in the gaol."

Apparently, the Protector, upon investigation, was satisfied of the truth of the allegations, for the writer is informed that the Leasks have been deprived of their labourers, and that they will never have any more assigned to them.

(6) The *Ladysmith Gazette,* during August, 1907, published the following:

Another of those unpleasant incidents occurred recently, at the Ramsay Collieries,* Wessel's Nek, Natal, in which a European foreman was alleged to have ill-treated an indentured Indian employed as a 'pick boy.' The case was brought before the Ladysmith Police Court, on the 13th inst. The complainant, Debi Singh, said that the accused assaulted him one Tuesday in July. The Deputy-Protector of Indians visited the Collieries, and secured witness's complaint. Witness was very ill at the time, as he was suffering from the effects of the assault. Noyle had caught him by the shirt, knocked him down with a stick (striking two severe blows on the back), and then kicked him. Witness was still under treatment, and showed signs of injuries. He was kicked on a sore leg, which became much worse by the latter injury. Witness was emptying a truck and was working as well as he could, when Noyle ordered him to be quick and, not being satisfied with his work, he then committed the assault, which was witnessed by Timul and Moolehamd (sic), Indians. Before the visit of the Deputy Protector, witness was ill from the assault, and asked for treatment, *which was refused.* The Deputy-Protector, however, ordered his removal to a Hospital in Ladysmith, which was done.

The Clerk of the Peace said that the assault was admitted, and it was for His Worship to decide whether.....it was of such a nature as to cause removal of the complainant to the Hospital and detention there for some weeks. Defendant had failed to establish that there was another cause than the assault.. ... His Worship...had no doubt that defendant assaulted him (complainant) by hitting and kicking him. Defendant had every opportunity of seeking relief of the Court, who would have seen that the complainant would have been punished if his disobedience had been proved. It was objectionable for native (kaffir) indunas to be placed in charge of Indians, and Collieries and other employers should heed this. There was an uncertainty as to the extent of the injuries; "in the absence, therefore, of medical testimony, *he would take a mild view of the assault, and impose a fine of* £2 10s."

A very mild view to take! Commenting upon this case, the *Ladysmith Gazette* said:

Some weeks ago, we hinted that at an early date, we would be enabled to reveal some cases that have occurred on some Collieries in this Division.....In one instance an induna has been found guilty of kicking a coolie, and there is a charge pending against a Sirdar for assault.....We are of opinion that subject races should be treated firmly, but that they should also be treated mercifully.

(7) In May of 1908, 117 indentured Indians, belonging to the above Collieries, were brought before the Magistrate at Ladysmith, on a charge of desertion. They alleged ill-treatment and shortage

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*A notorious Mine.

of rations. Even were they able to substantiate their complaints, they were liable to two months' imprisonment with hard labour, under Section 101 of Act 25 of 1891!

(8) On the 6th October, 1908, an awful story of brutality was revealed. Let *The Times of Natal* tell it:

"In the City Court, on the 6th instant, before Mr. Hime, J. L. Armitage was charged with assaulting an Indian who was in his employ on September 11. Accused.....pleaded not guilty. Complainant, who had been previously convicted for assaulting Mr. Armitage's wife, stated that he was brought up from Durban by a messenger to the accused's house. The accused asked him who told him to assault his wife, and knocked him down, jumped on his shoulders, *and cut the lobe of his right ear off with a pocket-knife.* When he had done this, he put some medicine on, and bandaged it up. Witness admitted that the accused said that he did it as a means of having the man arrested anywhere. Dr. Ward said that *about an inch and a quarter had been cut off the lobe of his ear.* It.....had disfigured him for life.....The defence was practically that *the Government allowed the cutting of sheep's ears, and the complainant was no better than a sheep.* He would also be able to have him arrested.

His Worship, in giving judgment, made some very strong remarks, and found the accused guilty. He said that if he had his own way, he would have sent the accused to the highest Court of the land, before a Judge and Jury, and there the Judge could say what penalty would be most fitting in such a case. The accused seemed to have had the idea in his head that, as the Government allowed the cutting of sheep's ears, he could do the same to a human being who was placed under his care and protection. The accused seemed fully prepared to commit the act, for he had taken with him a sharp pen-knife, ointment and dressing. His Worship was horrified to think that a person having charge of human beings could do such a thing. *He did not think that Mr. Armitage was a fit man to have Indians in his charge.* He was bound to find that there was no justification for the action that had been taken by the accused. The poor man had been disfigured for life, and Mr. Armitage had come before the Court and classified the Indian with a sheep. His Worship had some hesitation in coming to a decision as to the penalty he would inflict. If he was satisfied that the accused's mind had been clear and right on that day, he would have no hesitation in sending him to gaol without the option of paying a fine. He was satisfied that the accused's mind must have been unhinged through an assault the complainant had committed on the accused's wife some months before. If that sort of thing was allowed to go on, Indians in the employ of white people would not be safe with their lives. His worship hoped that the penalty he was about to inflict would be a warning to other employers. The accused was fined £20, with the alternative of one month's imprisonment [the report does not say whether with or without hard labour].....The accused was given till next morning to pay the fine.....The Prosecutor put in two previous convictions for assault against the accused.

Obviously, the Magistrate did not err on the side of severity, and it is noticeable, in most of these cases, how every possible excuse is advanced for the brutality of employers accused of assault. The penalty is usually quite disproportionate to the offence, whether Europeans or Indians be the accused. But too often, it appears that there is one law for the European employer and another for the Indian employee.

On the 17th November, the unfortunate victim, Manawar, sued Armitage civilly for damages to the amount of £ 250.

The Magistrate, says the *Times of Natal*, said that the defendant's wife had been assaulted by the plaintiff, and he had been punished for it. He received six months' imprisonment with hard labour, and was sentenced to receive a flogging of twenty lashes. Defendant seemed very anxious to have the boy whipped, and applied to several persons to be allowed to see the flogging administered .....Provocation had to be considered, but he could not find that there had been any. It was something that the defendant had intended to do, and he had marked the man for life. By what he could see, it was vindictive retaliation ... ..Plaintiff was entitled to compensation, and His Worship thought that £ 10 (with costs) was ample.

Armitage appeared to think that the Criminal Magistrate had done him an injustice, for he appealed to the Supreme Court, which, of course, dimissed his appeal. In giving the decision of the Court, the Chief Justice said (vide *Times of Natal*) that :

One of the objections to the decision of the Magistrate was that the Magistrate was prejudiced.....His Lordship was disposed to think that the Magistrate, having regard to the circumstances of the case, might have imposed a greater penalty. He must have taken into consideration that the appellant's wife had been assaulted. He could not, therefore, have been prejudiced. His Lordship thought that it was unfortunate that the Indian should have to return to his master, as he thought that a transfer might have been possible. It was difficult to understand that the relations between the Indian and his master, after what had occurred, could be of a cordial nature.....If he (the appellant) had killed the Indian, he would have been tried for murder and found guilty of murder. The appellant, too, had stated that he looked upon the man as nothing better than a sheep..... He (the Magistrate) would have been justified in imposing a greater penalty.

One is glad to place it on record that Mr. Armitage, who regards indentured Indians as "no better than sheep," is no longer permitted to have them placed under his "care and protection."

(9) *The Natal Mercury*, of the early part of March last, recorded the case of an Indian, indentured to the Natal Government Railways, one of the largest employers of indentured labour in the Colony, who appeared before a Magistrate charged with absenting himself from work. The accused had just completed a term of imprisonment on the same charge, and, on coming out, he was ordered to go to Weenen to work, but he refused, saying: "I like breaking stones much better than working on the Natal Government Railways." There was, obviously, no question of the man's desire to shirk work. He was quite prepared, as he had already done, to break stones in gaol, a not very varied or easy occupation, but he appeared to prefer it to performing the simpler task with which the Natal Government provided him during the statutory nine hours between sunrise and sunset of each working day. In any other country than Natal, so remarkable an occurrence could not have passed without comment. In Natal, however, the incident appears to have been

so commonplace as not to have excited the slightest suspicion that all was not well under the best of all possible employers. If the happy man, who preferred breaking stones in gaol to working for the Natal Government Railways, hurt the feelings of the Railway Administration, at least he paid a generous tribute to the prison authorities!

(10) *The Natal Advertiser*, during October, 1908, reported a case in which a certain Sydney Robinson was charged with assaulting three Indians, named Ramasamy Naidu, Kamatchi, and T. Natasen, at or near the Central Gaol, on the 24th September. The case was the outcome of a refusal on the part of the three Indians to return to their employer, when ordered to do so. An Indian interpreter at the Protector's office deposed that, on the 24th September, after taking the complainant's depositions, there was a mark across the bridge of Naidoo's nose, also a mark on his arm. In his opinion, the mark on the face was caused by a sjambok (rhinocero's-hide whip). Naidoo had made several complaints against his master. The woman Kamatchi, complained that she had been brutally struck on her back. A special Indian Constable testified that after the three complainants were discharged from the Central Gaol (where they had been confined for refusing to return to their employer), the woman was struck two or three times, and the man also, by the accused, who was on horseback. The woman screamed loudly upon being struck. The Indian woman, who gave evidence, said that she would rather die than go back to accused's place. She had made up her mind not to go back. A gaol warder testified that the complainants were unmarked when they left the gaol. The female complainant's son detailed what had happened when his father and mother left the gaol, and said that accused, who was on horseback, struck his mother with a sjambok. He cried out, and accused struck him also. Accused struck his mother five times, and blood flowed from her ear.

For the defence, it was alleged that the male complainant received the mark on the face by falling down a quarry when drunk, and two brothers of the accused and his father, the notorious T. B. Robinson, testified to the truth of this. It was denied that the assaults had been committed.

The Magistrate, who declined to believe that the mark was caused as alleged by the defence,

found that an assault was committed. This was a case where a youth had acted upon the impulse of the moment, as the result of the persistent refusal of the Indians to work, and to return to their work when ordered, and had struck them. The fact that they refused to go back to their work had given great provocation to Robinson (!), but he regretted that the accused had not, like a man,

admitted that he struck the blows..... He (the Magistrate) *knew the Indians well, and knew how aggravating and tantalising they could be.* The law, however, was not vindictive, and he was not there to administer it vindictively, and *he thought the case would be met by cautioning and discharging accused.* His Worship addressed the Indians, and advised them to go back to their work.

This Magistrate (Mr. Griffin) seemed to feel the need to apologise for imposing no penalty upon this young savage. Here we have T. B. Robinson, his wife, and a son, all convicted of brutal assaults, besides two other sons of the same nature, who have plainly perjured themselves, and yet this Magistrate could calmly talk of his knowledge of "how aggravating and tantalising" Indians could be—because they refused to return to employers who could not even find it in their hearts to treat their servants as they would good cattle! What hope of justice can an indentured Indian expect from such a Magistrate!

11. P. D. Simmons, of Mooi River District, had indentured to him, in the early part of February, 1909, two Indians, a man named Ramasamy, and a woman named Poli. They were living together (though not lawfully married) as man and wife, and had two little children, one an infant in arms. For some reason or other, the employer tied the man up to a nail in the wall, and whipped him severely, but as his victim could still wriggle about, he had him tied to the rafters of a room and lashed him with a sjambok until he himself was overcome with fatigue, and the man's back was one mass of raw and quivering flesh. Simmons then warned the miserable man against laying any complaint against him, threatening his life if he did, but in the night, Ramasamy and his family fled to the nearest Magistrate and told their tale. The Magistrate took the man's deposition, *and then told him to return to the estate,* pending enquiry. Naturally, fearing death if he went back, he and his family, by dint of great exertions, finally reached Durban, many miles away, where he went to complain to the Protector. The latter inquired if he had made his complaint to the local Magistrate, and upon learning that this had been done, declined to interfere. He ordered the man to return to his employer, under penalty of imprisonment (Section 31). Meanwhile, Simmons had informed the police that Ramasamy and Poli had deserted from his estate, and the authorities, having traced them to the Protector's office, arrested them there, without demur on that official's part. They were charged before Mr. Warner, in the Durban Court under Section 31 of Act 25 of 1891. They complained a third time, but the Magistrate, after telling them that the complaint would be investigated, sent them to gaol for seven days for refusing to go back to their employer.

The two infants accompanied them to the prison, the Protector not deeming it necessary to make any provision for them elsewhere. At the end of the period of imprisonment, Ramasamy was returned under escort to his employer, but Poli and the two children were taken to the Protector's office, and nothing of them has since been heard. As a result of the local Magistrate's investigations, Simmons was summoned, but, on the return day of the summons, he failed to appear, having fled.

Here the facts are plain. The man Ramasamy was cruelly tortured. He made a complaint to the local Magistrate, who ordered his return to his employer, pending investigation. He then complained to the Protector, who took no notice. He was arrested, and sentenced to seven days' imprisonment with hard labour for "desertion," as was the woman whom he had taken as his wife, and, as a final punishment for daring to protest against being half-killed, he was deprived of his wife and family, whom he cannot reclaim, as no legal marriage has been registered, in terms of Section 71 of Act 25 of 1891. The woman is left to her own resources to bring up her two babies, and must almost inevitably lead an immoral life or be assigned to live with some man other than the father of her children. Replying to a question concerning this case, in the House of Commons, Colonel Seely admitted that "the facts, if true, indicated that all the conditions ensuring good treatment of the indentured Indians had been transgressed."

12. Moorgen Mudaly (116,821) and his wife, Odda Nagi (116,838) were indentured to a certain Magistrate. They had been in his employ for 3½ years, their contracts being as field-labourers. They were, however, it is alleged, employed as special servants, the man as cook, waiter, and dhobi, the woman as housemaid, nurse, and ironing woman, but, contrary to the terms of the Act, they were only paid the lower wages of field-labourers. The man's hours were from 4 A.M., when he rose to light the fires, to noon, when he had a half-hour for his meal, then from 12-30 P.M. to 5 P.M., when he had another half-hour, and from 5-30 P.M. to 9 P.M. The woman's hours were the same, except that they commenced at 6 A.M. and ceased at 7 P.M. They had two children, but these were not permitted to come on to the employer's premises. The elder child, aged 2½ years, was tied to a peg in the parent's hut for safety, till the day's work was over, and it could receive a little attention. When the younger was a week old, the employer insisted upon the mother returning to work, but refused to allow her to bring the child with her. Fearing lest the child

should starve, the mother gave the child away to another Indian to be looked after, but a week later it died of neglect. About the middle of June last, the parents went to the Protector, in Durban, to complain, who ordered them to return to their employer, pending investigation. This they refused to do, with the result that they were sent before the Durban Magistrate, and they were convicted and sentenced under Section 31 and its amendments. The above story was told bofore the Magistrate.

(13) The terms of the Indenture Laws prohibit the separation of husband and wife, parents and children, in the allotment of labourers to employers. But there is no provision for the prevention of separation after allotment, and the following case indicates how an unscrupulous employer can terrorise his employees.

Sornachellan Padiachy and his wife Valiamma were indentured to a certain employer, with whom was also a Sirdar named Muthialu. Sornachellan and his wife had worked for some six months with this employer, when Muthialu began to pay his attentions to Valiamma, and took every opportunity of finding fault with her husband. The latter eventually complained to his employer about the Sirdar's conduct, but the employer, it is declared, ignoring the complaint, thrashed Sornachellan and transferred him to another estate of his, after having again thrashed him for protesting, leaving Valiamma to the mercy of the Sirdar, Muthialu. Sornachellam and Valiamma were lawfully married, and the marriage was registered with the Protector, under Section 71 of the Act. Notwithstanding this, some time afterwards, the employer sent Muthialu and the woman to the Magistrate's Court, and had them registered as being married. Children were born to Valiamma after she lived with Muthialu. At the end of three years, Muthialu left this employer and re-indentured, with Valiamma, with another European. With the change of employer, the Protector took exception, for the first time, to the registration of the "marriage" between Muthialu and Valiamma, *and instituted proceedings against Valiamma for bigamy*! In November, 1907, Valiamma was fined £5 (Rs. 75) for the "offence." The fine was paid by Muthialu, who took Valiamma away and continues to live with her, apparently with the full knowledge and consent of the authorities. Meanwhile, the unfortunate Sornachellan has been robbed of his wife, whilst she has been yielded up to the base passions of the Sirdar, Muthialu, a modern case of David and Bathsheba.

(14) Kirpasingh (121,710) was indentured to one J. R. Whitaker, of Estcourt. About the 15th June, 1908, he complain-

ed of assault against his employer. He stated that he had asked Whitaker for his wages, and that the latter, under protest of payment, had taken him into the dining-room and then closed the door. Whitaker had then kicked him unmercifully. Kirpasingh showed three bad bruises on his legs, but could, naturally, produce no witnesses. He charged his employer, who was tried. Whitaker, who brought three native (Kaffir) servants as witnesses, denied the assault and the case was dismissed. Kirpasingh was then proceeded against for perjury, and on the evidence of Whitaker and the three native witnesses, he was sentenced to six months' imprisonment with hard labour, and fifteen lashes. On the 5th October last, he was transferred to the Point Gaol, Durban, and, on the 5th April, 1909, was released. He then went to the Protector, and asked to be transferred to another employer, but the Protector refused, ordering him to return to Whitaker. Upon his refusal, the Protector proceeded against him in the usual way, but the Magistrate, on hearing the circumstances, cautioned and discharged him. He was, however, ordered to be sent back to Whitaker under escort, for which he had to pay.

(15) Chhattru (114,154), about the same time as Kirpasingh, was charged, by the same employer, with assault. He was sentenced, presumably by the same discriminating Magistrate, to six months' hard labour and 20 lashes. He was released about the same time as Kirpasingh, and made a similar request for transfer to the Protector, who dealt with him in the same way. In this case, however, the man was sentenced to one month's hard labour, and then sent back to Whitaker under escort at his own expense.

(16) On the morning of a certain day, about five years ago, Sangam (104,247), Seocharan (104,473) and Naurangsingh, indentured to a European employer, whilst working in the cane-fields, declared that they saw a sirdar, named Ganese, violently assault a fellow-labourer, Janghir, and kill him. They immediately reported the matter to the European Manager, known to the men as "Ganee." The employer came to see Janghir in the afternoon, but found him dead. The Sirdar was prosecuted for murder, but it is alleged that, through powerful influences being brought to bear, he was acquitted. The three Indians were promptly prosecuted for perjury. During the preliminary examination, Naurangsingh died, through sheer fright at his terrible position. The other two men were sentenced each to five years' imprisonment with hard labour, being released about the beginning of April last. They went to the Protector and asked to be transferred to some other employer. As before, the Protector refused,

and ordered them back to their old estate. They declined to do so, were charged, convicted, sentenced to pay a fine of 10*s.* each or to 7 days' hard labour, and were then returned under escort, at their own cost.

(17) Rambally (128,349), was indentured to T. B. Robinson, of evil repute. His duty was to sell milk at 5*d.* per bottle when the current price was only 4*d.* Being unable to sell all the milk, he returned with what was unsold, when Mrs. Robinson threw the milk over him, whilst Robinson himself violently assaulted the poor man, injuring his thigh. The man managed to crawl away to the barracks, and eventually to the Indian Market, in Grey Street, Durban, where he was found in an exhausted condition. Dr. Nanji, an Indian Medical Practitioner, examined him and certified as to his state, referring him to the Protector. The latter referred him to the Magistrate of the Umlazi Court, to complain, and the man was subsequently sent to the Depot Hospital, under the Protector's charge. Here he lay for some five or six months, and, about the end of last year, was shipped back to India, a cripple, by the *Umlazi*, leaving his wife, Gangajalia (128,349), and child behind, unprotected, in the service of the same employer. A few days before the assault took place, the woman had given birth to the child. She had scarcely been convalescent a week, it is said, when Mrs. Robinson dragged her out of bed, stripped her almost naked, threw cold water over her, and told her to turn out to work—all this in the presence of a number of other employees. And this family of human fiends is still permitted to have "the care and protection" of indentured labourers.

The above seventeen cases cover the short period of three years, and they are but a few of those that must have occurred in that period, unreported. Then again, they would naturally be *only a small proportion of the actual number of cases* of cruelty, for it is exceptional for the indentured Indians to complain, realising that their complaints are usually disregarded or treated as frivolous and they themselves severely punished; realising also the almost impossibility of getting their fellow-employees, in fear of their lives, to give evidence against the employers. Yet, in nearly every case of "desertion" that comes before the Courts, the defence set up is ill-usage by employers. Below is a tabular statement of the number of convictions for "desertion", under Section 31 of Act 25 of 1891 and its additions and amendments. The figures are approximate, and are those of the *Durban Courts alone*;—

1901	...	...	340
1902	...	...	450
1903	...	..	520
1904	...	...	600
1905	...	...	720
1906	...	...	850
1907	...	...	1100
1908	...	...	900

It will thus be seen that, during eight years, matters have steadily been growing worse, the convictions during 1908 being nearly three times the number in 1901.

A Terrible Indictment.

Below are given extracts from a letter addressed by a correspondent, signing himself "One Who Knows," to the *Natal Advertiser*, the editor of which journal says:—

We have been asked to publish the following statement by one competent to speak, and of whose *bona fides* we have satisfied ourselves. We have made special inquiries into the allegations of ill-treatment, and have taken pains to consult official records and have found his charges amply demand the fullest inquiry. His indictment reads as follows:—

The life of an indentured Indian in Natal—what is it? In many instances a hell upon earth. With regard to the few points about the Indians' life on the estates which I wish to bring forward, it is to be understood that I deal with the life of the actual field, mill and factory worker, and not the house-servant whose lot is usually paradise compared with that of the former, and who is as a rule more or less well treated by his or her employer.

Now as to indentured Indian labour from the point of view of one who has seen much of it, and who takes the view that under the existing circumstances of the Indian Immigration Department, the present state of the average indentured Indian in Natal is worse than that of slavery.

The Indian Immigration Trust Board, which is the ruling power of the indentured system, consists of at present seven employers, the Protector and one Government nominee. Until the last few months it consisted entirely of employers. Before going any further it can easily be seen, when a matter beneficial to the Indians but somewhat prejudicial to the pockets of the employers is brought forward, how difficult it must be for such a matter to go through. The employer majority is 7 to 2 and human nature is human nature after all. Again, the Indian medical officers under whose care the estate Indians are, are under the Trust Board. That is, they are practically, and in some cases actually, under the employers in their own circles. Under the present conditions it appears impossible to me that an Indian medical officer can do his duty conscientiously and live in peace with his employers. The Board should not be constituted as it is at present and the medical officers should be placed under Government and be responsible to Government and no one else.

Among the abuses pointed out were:—

The subtraction of wages from sick Indians; that is, taking, for example, a first-year man with the munificent wage of 10*s.* per month, with perhaps a wife and child or children, and further supposing, as does occur, that he is ill for 20 days on the estate, the 6*d.* a day having been deducted from his pay, at the end of that time he has no wages due to him and he must work the last ten days of the month for no wages at all, and if his wife is not working then the whole of the

family has to live for a month on the rations of one man. Employers may deny this, but it does occur, and managers if they cared or dared to do so would corroborate the above. In some cases it is certain that non-working sick Indians got no rations at all. Another abuse mentioned was the working of women with babies in the fields, exposed to all weathers, thus tending to promote *disease among* the children. Again during the winter it was the custom on one estate to give no work to these women and of course, no rations or wages; these women were a fruitful source of trouble in the district, for reasons which need not be mentioned; they had no money or food and had to get it some way or other.

Another glaring abuse was mentioned, namely, the sending of sick Indians into hospital too late for recovery. The death-rate for one hospital was 160 (about) from July, 1906, to the end of June, 1907, and among those deaths 20 (odd) died the same day is admitted, 30 (odd) within 24 hours and 40 (odd) belonged to two shiploads of Indians who ought never to have left Calcutta. Let me mention here again that I know several employers against whom there has never been any word of complaint, and whose treatment of their Indians is all that it should be and more. The callousness of some employers and managers is appalling; they look upon their servants as animals and treat them rather worse than such. One manager struck an Indian woman on her side with a heavy stick when she was stooping, and so injured one of her ribs that part of it died, and she suffered for months and could not work.

A Sirdar struck a woman on the wrist with his stick and broke one of the bones, incapacitating her from work for weeks. Both these cases were reported to the estate-owners but apparently nothing was done to the delinquents. One Indian complained to the medical officer that he had been knocked down by his master and his leg severely injured. He was so enfeebled by this that he eventually succumbed to ankylostomiasis. It is only fair to say that the master was summoned but was discharged by the magistrate.

One man on a certain estate committed suicide—the story was that he had been so ill-treated that he had nothing left but to hang himself. An Indian lay *ill on this estate for about a month with* dysentery *and no medical man saw him.* He died and *a post mortem* was held. The story was that he had been so unmercifully thrashed a month or so before that he had never recovered and had finally succumbed to dysentery. An Indian was brought into hospital from the same estate in a dying condition and before death, and knowing he would die he complained of having had no attention at all for some days before the medical officer saw him on the estate, which he did on the day he was sent to hospital—the condition in which the medical officer found him is given in detail in the medical officer's letter of resignation. Inquiries were held on all the three cases mentioned and nothing came of them. As stated, the Indians are unwilling witnesses, and naturally! When I state here that one manager on this estate never went into the field without a revolver, apparently to protect himself from the Indians, it is easy to imagine what sort of treatment the Indians received. This manager has since left. A woman once went into hospital, a woman who had a serious illness and a severe operation performed upon her—showing stripes from a whip covering her thighs and legs, given, she said, by her master, because she could not work.

One master, I am told, chained and handcuffed one of his Indians for some moral offence. The Indian managed to crawl away at night, and threw himself into a pond and drowned himself, preferring death to his awful life in Natal. I am told his master was fined £20. (This case is on the records.—Ed., *N. A.*)

The medical officer once visited an estate and found there an old man suffering from dysentery, and who had had no treatment, he said, for several days. The employers begged the medical officer to allow them to treat the man at home, urging the awful expense at hospital (1*s.* per diem!). The medical officer allowed them to do so on the understanding that he should be sent to hospital in a day or two if no better. The next intimation the medical officer had *was that he was dead, a week or* so later.

The medical treatment on the estates is absolutely wrong– the West Indian method is the only one suitable. Some employers fondly imagine they can treat every known disease. On one estate the death rate of children was very high indeed—often enough the only intimation that the Indian medical officer had as to children being ill was the request from the manager for death certificates. As to the medical officer's reporting such cases: The above manager after repeated requests not to do as he was doing was reported to the Protector, with the result that the manager met the medical officer, abused him, and threatened to send for him for every case of ordinary sickness on his estate. The case of the *injured leg was reported to the Protector, and the Managing-Director of the* Company went up to the hospital and roundly abused the medical officer for having dared to report the case to the Protector.

Some employers prefer women; they are inexpensive, can be treated with more impunity than the men, and do quite two-thirds as much work. Another pleasing spectacle is to wait by the weighing machines and watch the women struggling home with their heavy loads, and if they are a few pounds under weight down comes the sjambok on unprotected head and quivering shoulders, while a torrent of abuse is poured out upon them. Some overseers imagine they can do nothing with Indians unless they shout at them. I cannot find words to express my opinion of the present condition of things. I know this, that for the average Natalian, or Home-born either, to have charge of Indians who are practically completely at his mercy is to kill what decent instincts he had and turn him into a cruel and remorseless slave-driver, for it is slavery and nothing else. It may be argued that many Indians re-indenture; so they do, but as a rule chiefly in decently conducted estates. Another crying evil is the working of young children in tea factories. Some philanthropist should pay a surprise visit to some factories and inquire as to the age of the children working there. The hours of labour—nine hours a day—are not adhered to. A case was tried the other day, in which it was proved that the Indians were worked more than 11 hours a day. Most estates do the same. On one estate I believe the women used to leave their barracks about 5 A.M., walk three miles through sand, start work *before sunrise, and get home again after dark, too tired to cook their own* or husband's food—too tired to do anything but sleep. At one time certain estates actually deducted from their wages the train fare to hospital.

And now as to the condition of the Indians when they land in this country. Owing possibly to the non-provision by Government of sufficient inspectors, Indians do enter this country with malaria, leprosy, phthisis, tuberculosis, venereal disease, and last, but not least, ankylostomiasis. At one time two shiploads of Indians entered this Colony, of whom, I believe, a number died in a few months, chiefly from ankylostomiasis and its complications. I wonder if the general public know how many of their Indian cooks and servants are suffering from venereal diseases. The best remedy for all the foregoing is to stop the indentured system altogether. A more rigorous examination should be instituted in Calcutta and at Durban. No cases of disease should be allowed to land, or, if they do land, should not be discharged from the depôt until absolutely cured. I remember one case where an I.M.O., riding home from an estate visit, found a little body of Indians surrounding the prone form of a young Indian girl. On inquiry it was found that she had that morning left the depôt, had travelled some 50 miles by train, and then had struggled along the road for about seven miles, and a terribly hilly road at that, and had finally collapsed. She was found to be suffering from the most severe anæmia, and she died later in hospital—her end hastened by her appalling exertions. Imagine the agony of that poor girl as she struggled along the road, absolutely unfit for anything but bed. The truth is the depôt gets overcrowded, and the authorities probably did not know how far she would have to walk.

The indentured Indians should be taken over by Government The Indian medical officers should be placed under Government and I think it would be

better if they were paid a much higher salary: their present salaries are absurd, and that they should do nothing else but estate and hospital work, which would make them absolutely independent.

And not a single one of the above allegations has been seriously challenged, either by the employers, the Government, or the Protector! Nor was any inquiry into them held.

The following testimony was given by Mr. M. MacMahon in a Madras paper (quoted by the Hon. K. R. Guruswami Aiyar Avargal in the Madras Legislative Council, in November, 1906), and corroborated, so far as the incidents of the *Umfuli*, are concerned, by two other European passengers, Messrs. Blamire and Oldack:—

He spent several months in the Natal sugar estates, and saw everything there was to see there, and formed his opinion, as a practical planter that he is. In those estates (with the exception of some, where the coolie is treated well), indentured Indian coolies are worked from daybreak to nightfall—from four in the morning until seven in the night—and far beyond their capacity, such as it is. Being questioned whether they would like to go back to the estates, some coolies told him 'Never, Dorai, why, they skin you alive in that place*—When they leave the coast, the coolies do not know where they then go, and once they return home, they do not like to go back to the estates. The slavery there under the British flag is indeed worse than the slavery under the Sultan of Zanzibar. So worked, the coolies contract all sorts of disease, including consumption, and most of those who survive return home, mere wrecks of humanity, to die. Ceylon planters would be shocked if they saw the way these coolies are treated. *It is a surprise that the authorities in India do not inquire into the matter.* There have been Commissions of a kind; but a Commission of Ceylon and Indian planters should see how the indentured coolies are treated there. The way those coolies, about 653 in number, with more than 200 invalids amongst them, were packed home on board the ss. Umfuli, a vessel of less than 2,300 tons, was a disgrace to civilisation. They were huddled together—men, women, and children—without any separation of sexes. Some of the invalids were in a pitiable condition and ought never to have been allowed to leave the hospital. The best that was in them having been taken out of them, they were packed home to die. Among the invalids, there were cases of measles, beri-beri, consumption, and leprosy. There was no room for proper isolation and those required to be isolated were placed—men, women, and children, all huddled together—in two boats swung over the deck. Even lepers were mixed up with the rest. How they lived in there he could not imagine. As a fact, fourteen deaths occurred on the voyage.

These statements, as to the *Umfuli*, were at first denied. Then the Madras Government discovered that the Emigration laws of India did not provide for the control of ships containing "returned" emigrants. Finally, the Protector of Indian Immigrants for Natal said, in his Report for the year 1906:

Complaints as regards treatment of Indians on the return journey are rare; but on this occasion, the s.s. Umfuli, sailing on the 26th September, 1906, did carry more passengers than are allowed by the regulations, *owing to an error in the survey of the ship. But no harm occurred, and no complaint was made by the emigrants (!!!).*

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*The Report of the Calcutta Protector of Emigrants, for 1908, shows that, of 383 emigrants who had been under indenture and who had re-indentured, 220 had come from Natal, and of these only 47 were prepared to return to that Colony.

The Protector on Himself.

Let us now hear what the Protector has to say for his Department. The following extracts are from the Report for 1906 :—

As a general rule the Indians are undoubtedly well treated. I say, a general rule, for, on one or two of the larger estates, matters have not been satisfactory, and, as a result of official inquiries, the treatment accorded has been reported against. The inquries have done good, and *the death rate on one of the estates has fallen from* 39 *per* 1000 *to* 14. [Ill-treatment admitted.]

It is surprising how many (of the labourers) are turning out useless, and for the obvious reason that they were not the labouring class in India, and hence were quite unfitted for labour. [Indiscriminate recruiting.]

In some instances (during the Natal native rebellion) the European employers were ordered away from their estates by the military authorities, *and yet the Indians stayed and went on with their work*, and it is evident therefore, that the rebels had no serious antipathy to the Indians; and, to the credit of the Indians, it should be recorded that, on the whole, they acted in a very orderly manner. [Considering that they were totally unarmed and unprotected.]

For the third year in succession, I have to draw attention to the appointment of the Indian Medical Officers by a Board representing only employers of Indians. This is obviously unfair to Indians on the estates. That they may be ensured the best treatment to which they are entitled, the Indian Medical Officers should not be subject in any way to the influence of employers, but be free to act as they think best. I write strongly on this point, because it is when the employer domineers over the Indian Medical Officer that the Indian suffers, and a prominent case has come to my notice during the year.

The Report for the year 1907 contains the following :

The average savings declared by the adult Indians (returning to India) for the following years was as under :

				£	s.	d.
1904	...	...	...	16	7	6
1905	...	...	...	11	16	0
1906	...	...	...	14	2	10
1907	...	...	...	8	5	2

The decreased savings for the year are chiefly due to the fact that only 73 Indians under the old Act returned during the year. These old Act Indians who, on an average, had resided, in the Colony for 11 years, had much more scope for making money than the Indians under indenture. As all these Indians have now returned, or otherwise forfeited their free passage rights, future shipments will deal only with Indians under Act 17, 1895. [These are subject to the £3 annual licence if they remain in Natal without re-indenturing.]

Employers begin increasingly to realize that, charging their Indians before the Magistrate for every trivial offence, is neither wise policy nor good either for Indian or employer. A good man is often spoilt thereby, while imprisonment, is not regarded as a punishment by a bad man. *A little more sympathy on some estates*, and better results would accrue."

I think it objectionable to a certain extent for employers to retain monies, at the request of indentured Indians in their employ, and *who afterwards complain that their wages have not been paid them.*

I have not a little sympathy with those employers who are saddled with Indians who will not work. More than a fair proportion of this class have been introduced lately.....Such people are a test of good management on the part of an employer. On one estate, *by humouring them and by judicious and sympathetic handling*, the employer in time will perhaps make fair servants out of most of them; whilst on the adjoining estate, directly trouble arises, they are

handled severely and taken before the Magistrate or even imprisoned, a course which too often only aggravates the evil.

Although there is an improvement as regards licences (£3) due by the women, there will always be the greatest difficulty in securing payments from them, and it may reasonably be surmised that at least 50 per cent. will never be in a position to pay.

Naturally, only the Medical Officers become cognisant of many matters affecting the medical treatment of the Indians under their care, and unless the cases of neglect are brought to my notice, the employers continue to be careless and the Indians suffer accordingly; and, *in my opinion the high death-rate among indentured Indians working on the Coast Districts of Natal, is due in no small degree to this state of affairs.* This is an elementary lesson in human nature. To carry out their duties satisfactorily, the Medical Officers should be absolutely independent of the employer. *In view therefore, of this unsatisfactory state of things, I have asked for no reports from the Medical Officers for the year.*

The overwhelming majority of a Board so constituted (the Indian Immigration Trust Board of Natal is composed of seven employers, as against the Protector and one other Government nominee) naturally views matters from the standpoint of the employer, and the Protector is placed thereby in a very invidious position, especially as the Indian Medical Officers are under its control. *In no other Colony, introducing Indian Immigrants, is there any such Board of employers, and I am strongly of opinion that such a constituted Board should not in any way have any power to deal with, or in any way influence, the treatment of the indentured Indians in the Colony.*

A married man who leases, say, 4 acres of land for cultivation, has to pay for licences (under Act 17 of 1895) and rent at least £9 per annum, monthly in advance. With a bad season, therefore, it is almost impossible for him to make a scanty living. Hence, many are indenturing to secure a right of a free passage to India, and thus about 50 per cent. of those completing their indentures are re-indenturing or returning to India. *Unless, therefore, different conditions arise, the free population will probably decrease year by year.*

In addition to wages, Immigrants are provided with rations, lodgings, medical attendance, and medicine free of charge.

Maximum wage for adult male, 14*s.* per month.						
Minimum	"	"	"	"	10*s.*	" "
Average	"	"	"	"	12*s.*	" "
Maximum	"	"	women		7*s.*	" "
Minimum	"	"	"		5*s.*	" "
Average	"	"	"		6*s.*	" "

Under the provisions of Act 17, 1895, the wages to be paid to Indians who re-indenture is a matter of arrangement, and the minimum is: for male adults, 16*s.* up to 20*s.*, and the women, one-half of the men.

The Protector's Report for 1908 is a somewhat more human document. It contains the following:—

It cannot be impressed too seriously on employers, the necessity for constant daily oversight of their Indians, and that their surroundings should be kept in a thoroughly sanitary condition. This, besides improving the general health of the Indians, will provide the employer with more labour from the same number of Indians.

The question of the death-rate amongst women and children is a very difficult one, and will probably have to be dealt with before long.

Act 42 (of 1905) was specially passed to give Indians the power to regain the right they had lost to a free return passage to India, and it was anticipated that a large proportion would avail themselves of the privilege thus secured, but the returns above do not show that this was the real reason actuating many of them to become indentured Indians again.

Of the Indians who left in April, 1907, for Lobito Bay under contract with Messrs. Griffiths and Co., the Railway Contractors, *and returned during the year* [the contracts were for two years] 658 were domiciled and landed in Natal and 918 returned to India.

[Note :—It is not stated how many men and women went to Lobito Bay and how many died there.]

The women on some of the mines are not compelled to work, and are given half rations, those who do so being usually employed on the screens.

Overwork, which is continually cropping up, is far too common.

Sundry complaints have been made as regards the quality of food supplied, especially rice, and, owing to the enhanced price, this staple article has been imported from Madagascar and elsewhere, and trouble has ensued therefrom, *as special treatment is required in its cooking.* [*Note.—Madagascar rice is the most* inferior quality imported into South Africa.]

Complaints of non-regular payment of wages have been more frequent than usual, *the commercial depression being largely the cause.*

The assistance given me by the Inspector, who was appointed 1st February, 1908, has been very beneficial, especially in enabling me to have complaints inquired into promptly and to have more extended and more frequent visits made, visits which are so necessary in dealing with a class of people who are often afraid to state their grievance by reason of the long-deferred visits of officials making the usual inspection.

'Suitable work for indentured women is a question which has been engaging my attention. The Law 25, 1891, provides: 'That the assignment of females and younger persons shall be only for such varieties of labour as such females or younger persons are fitted for.' Cutting cane or lifting bundles of cane to trucks and waggons and feeding cane-rollers with cane is not, in my opinion, the kind of work women should be forced to do, and on this point I am practically supported by all the Indian Medical Officers who were consulted on it from a medical point of view. I also addressed a circular letter to the Protectors of the various Colonies introducing indentured Indians, and from replies, in at least two instances, I gather that women are not forced to do any work. In Demarara, this is the case as regards cane-cutting, &c., and the Immigration Agent-General states that the tendency in that Colony is to ever bear in mind that 'the woman is the complement of the man'. In Fiji the medical testimony coincides with that of Natal, and this description of work is seldom given to women.... *I hope in time to have this system of forced labour by women abolished.* [Query: Where the women are not related to the men, *what is to be their occupation?*]

The average savings declared by the adult Indians for the year 1908, were £8 10*s.* 10*d.*

Another sign of the growing difficulty of living experienced by the Free Indians subject to the yearly licence of £3 (those introduced since 1895), is the fact that men and women re-indenture themselves and often with arrears of licences to pay. This remark applies to 1,104 men and 425 women A good proportion may be expected, after completing their further service of two years, to avail themselves of their regained right to a free return passage to India; *but so far I incline to think that most of them re-indenture from sheer necessity, and not from choice or any notion of prospective rights.....* In most cases, too, those women are not compelled to work. [Query: What do they do, when unmarried or otherwise unrelated to the male Immigrants?] And they largely retained their freedom, without the incubus of licences to pay or uncertainty as regards means of subsistence.

From evidence, they certainly have one ready means of subsistence permitted them, and the Protector's Reports, year by year, show a steady spread of venereal disease amongst the indentured Indians,

So much then, for the Protector on himself. Natal Indians concur completely with the Hon. K. R. Guruswami Aiyar, who urged, in 1906, that an officer should be allocated, from the Indian Civil Service, or a high native Indian officer, to Natal as Protector of Indian Immigrants, and that the Government of India should periodically recall that officer into service in India, sending another in his stead. Better still, reform the system away altogether. The *Natal Adviser*, last September, wrote as follows :—

> We do not hesitate to say that the Indian Immigration Laws, if they do not reduce indentured labour to a form of slavery, at least establish conditions far more nearly approximating to servile conditions than did those which the British Parliament and people rejected in the case of the Rand Chinese. They are inequitable and disproportionate in their incidence on employer and employed; they convert actions on the part of the employed, which are not criminal offences, into criminal offences; they pretend to establish safeguards for the employed, which are not safeguards; they are unduly restrictive of the liberty of the individual.

The same paper has described the system as bad "in principle, bad in practice."

Stop the System!

On the 29th August, 1908, a Mass Meeting of Natal Indians carried unanimously the following Resolution :

> That this Mass Meeting of Natal British Indians strongly urges the stoppage of indentured Indian immigration to Natal, under the present state of the law, which reduces indentured labour to a form of slavery.

Last year, too, the Natal Indian community petitioned Parliament for the stoppage of contract labour introduced from India. There has, lately, been a recrudescence of the movement to secure the termination of contracts in India, rather than bring the system to an end. A Commission is now sitting on the whole question of indentured immigration, and will, probably, urge some such solution of the problem, possibly even offering guarantees for the removal of certain disabilities that at present weigh heavily upon the free Indian community, particularly the trading class. But the Indians in Natal will never consent to this. They have no selfish object to serve in urging a termination of the present system. They consider it to be bad in itself, apart altogether from many of its conditions. But it is felt that even the existing system is infinitely better than one whereunder indentures should become terminable outside the borders of the Colony. It is felt that the proposers of the scheme are not only unaware of the conditions of life that obtain in India, but are content to regard the Indian labourer as a machine, from which the last ounce of work is to be ruthlessly extracted, and which may then be "scrapped" with other outworn instruments of labour. This

attitude of mind would preclude the covenanted labourer from securing, at the end of his contract, the wherewithal to remunerate himself for his five years' heavy labour in the service of an alien master, at a miserable wage. It is *possible* for a male indentured labourer to save at the end of his five years' contract, a maximum amount of £36, supposing that he has not spent a penny of his wages in the meantime on food (to eke out his scanty rations, especially if he have children, and his wife's time is engaged in attending them and cooking his meals, she consequently getting no pay or rations), clothing, medicine (for he prefers his native drugs), religious purposes, or the many other needs that demand satisfaction, and has had not a single penny deducted in fines, or for sickness, or for any other reason. As we have seen from the Protector's Reports, the average declared savings for ex-indentured Indians leaving for India amounted, in 1908, to the paltry sum of £ 8 10*s.* 10*d.* as against £ 16 17*s.* 6*d.* in 1904, and that this low figure is expected to be perpetuated in the future. To return to India, with a sum of £36, after an absence of five years, would be hard enough, but to go back with a miserable amount of £ 8 10*s.* is an impossibility, even if to this sum be added another £ 4 (based upon the figures, given in the 1908 Report of the Protector of Emigrants, Calcutta, for the four years, 1905—08) remitted to India by money-order—and the Natal Protector shows that, though Indians have the advantage of a free return passage to India, they do not avail themselves of the privilege, seeking re-indenture (upon the estates where good treatment is known to be given) instead.

To commence life afresh, too, landing at Madras with £ 8 10*s.* in his pocket is an awful prospect for a man who has spent the best five years of his life working for another, having learnt little of enterprise or initiative, having degenerated through lack of moral, religious, and social restraints, carrying with him, probably, the germs of disease, if not already strongly attacked by it, and being but partially acquainted with a method of cultivation which may, however, serve him in no stead whatever in his native land. It is keenly felt that it would be in the highest degree inhuman to repatriate those who have, so far as it was possible to them, added to the Colony's wealth, and made it habitable and productive. Such a policy would savour of ungenerosity and ingratitude.

It stands to the good name of Natal, however, that one of her public men twenty years ago protested against what may be called the *squeezed orange policy.* Mr. James R. Saunders, a member of the Natal Commission on Indian Immigration, in 1887, said:

Though the Commission has made no recommendation on the subject of passing a law to force Indians back to India at the expiration of their term of service unless they renew their indentures, I wish to express my strong condemnation of any such idea, and feel convinced that many who now advocate the plan, when they realise what it means, will reject it as energetically as I do. Stop Indian immigration and face the results, but do not try to do what I can show is a great wrong. What is it but taking the best of our servants (the good as well as the bad) and then refusing them the enjoyment of their reward? Forcing them back (if we could, but cannot) when their best days have been spent for our benefit..... Shylock-like, taking the pound of flesh, and Shylock-like, we may rely on its meeting Shylock's reward. Stop Indian immigration if you will; if there are not enough unoccupied houses now, empty more by clearing out Arabs and Indians who live in them, and who add to the productive and consuming power of a less than half-peopled country.....But force men off at the end of their term of service—this the Colony cannot do—and I urge on it not to discredit a fair name by trying.

As to the debt that the Colony owes these patient, long-suffering people, let the *Natal Mercury* speak:

In 1860, when the Indians were first introduced, the main anxiety in the minds of the people there was that they would go back to India when their indentures were completed, and Mr. J. R. Saunders, who was one of the members of the Indian Immigrants Commission of 1884, in the course of his report, said: "If we look back to 1859, we shall find that the assured promise of Indian labour resulted in an immediate rise of revenue, which increased four-fold within a few years—mechanics, who could not get away and were earning five shillings a day and less, found their wages more than doubled, and progress gave encouragement to every one, from the Berg to the sea." The Colony was in dire straits in those days.* The Revenue was only about £4 per head of the white population, whereas now it is nearer £40 .....If we mean to take up the matter in real earnest, we must be prepared to do away with indentured labour altogether;..... but, whatever we do, we must act justly, and remember that a certain number of Indians have been born and brought up in the Colony and that it is the only country they know and the only home they have.

A noble appeal, surely! The Indian community of Natal has much to be grateful for to the principal organs of the Natal Press.

Mr. L. E. Neame says*:—

Indian coolies work the sugar and tea estates of the Coast; Indians develop the coal-mines; Indians perform an increasing share of the work on the farms; for the farmers, who at first viewed them with distrust, are now as anxious to retain them as the planters. Since the advent of coolie labour, *the white population has more than doubled*, the value of land has increased, the cost of living has gone down. It is the Indian coolie who gives Natal the cheap fruit and vegetables which are the envy of the Transvaal, who has brought under high cultivation large tracts which, but for his presence, would to-day be barren. The Umbilo Valley, near Durban (recently swept by the flood), and some of the land near Maritzburg, bear testimony to his industry. Mr. Maurice S. Evans, M. L. A., of Durban, who is now heading a movement for the cessation of indentured coolie labour, admitted in a little book† he wrote some time ago, that the Indian is a better cultivator than the Kaffir, that he is steady, thrifty, and law-abiding.

As recently as the 15th of July, 1908, Sir Liege Hulett, M.L.A., reminded an attentive audience in the Natal Legislative Assembly

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* *The Asiatic Danger in the Colonies*; pp. 16-17.

† *Problems of Production in Natal*, by Maurice S. Evans, M. L. A.

how, prior to the introduction of the Indian coolie, fields had been planted and crops had ripened and rotted on the ground for want of labour, and how, in spite of the fact that no gold-fields then existed to draw off the native labour-supply, it was found impossible to obtain an adequate service.

"The condition of the Colony," he continued, "before the importation of Indian labour was one of gloom, it was one that then and there threatened to extinguish the vitality of the country and it was only by the Government assisting the importation of labour that the country began at once to revive. The Coast had been turned into one of the most prosperous parts of South Africa. They could not find in the whole of the Cape and the Transvaal what could be found on the coast of Natal—10,000 acres of land in one plot and in one crop—and that was entirely due to the importation of Indians.....Durban was absolutely built up on the Indian population."

The Indian Community desires that the system of importing indentured labour from India shall cease at the earliest possible moment. It holds that the system is unfair to European, Indian, and aboriginal native alike. It is unfair to the European, because its inevitable tendency is to sap his manhood, make him callous to the human needs of the labourers, dependent upon the wealth-creating power of these, rather than upon his own energy and ingenuity, and intolerant towards the Indians as a race. It is unjust to the Indian population, because, even from an economic point of view, it is disastrous to their welfare to introduce the competition of this protected labour against the free labour of the non-indentured Indians (many of whom are starving), thereby reducing the rate of remuneration, and, in proportion, lowering the standard of living. Moreover, the constant State-aided introduction of this class of immigration is a political danger to the resident and independent Indian community, as the latter is always liable to the popular charge of endeavouring to flood the Colony and South Africa with fresh immigrants from Asia, a statement of intention on the part of the Indians that is entirely lacking in foundation, for, from purely selfish reasons, and because they recognise the intensity of race prejudice in the sub-continent, they have long ago assented to the restriction of future Indian immigrants to those who are able to pass the tests of the general Immigration Laws of the various Colonies. Natal, whilst closing the front-door upon Asiatic immigration, opens the back-door for its further artificial introduction, contrary to the wishes of the whole Indian community, and is thus adding to the intensity of popular prejudice existing against Indians all over South Africa, *thus preventing the removal of disabilities weighing* heavily upon the resident Indian population, and imposed only because of the fear of an Asiatic invasion drawn from this source.

The £3 Annual Tax.

Take, for example, the £3 annual licence exacted from all ex-indentured men *and women* who have been introduced into the Colony under contracts of labour by virtue of Act 17 of 1895, they not having re-indentured or availed themselves of the free return passage to India. From every such ex-indentured male of 16 years and upwards and from every such ex-indentured female of 13 years and upwards (including their descendants), payment of this annual tax is required. The tax was, of course, imposed with the object of either compelling time-expired Indians and their families to return to India or else to re-indenture, for Natal abhors a free Indian almost as much as (theoretically, at least) it abhors sin. These results have certainly, to some extent, been obtained, but they are not the only effects of the Act. Take the case of a man with a wife and family, the eldest of whom is a girl of 13 years. The total annual taxation of that family from this source, apart from the poll-tax (£1), and before a single penny can be earned for food, clothing, rent, medicine, or household necessaries, is £9, the average monthly wage of a free Indian labourer being twenty to twenty-five shillings a month. In large numbers of cases, the people are too poor to pay the tax, and as a consequence, men frequently desert their families, whom they can no longer support. They can secure no employment whereby they may accumulate the amount of the tax, for employers, forgetting that they may deduct it from the monthly wages, refuse to risk the penalties that apply to those who otherwise employ an Indian that cannot produce his licence-receipt. The man must accordingly starve, live a life of crime, or sell his liberty by re-indenturing. In the case of the women, they are often almost driven to lead an immoral life, whether they remain technically free or return to the estates to earn their miserable pittance (in ways that the Protector barely hints at), and the effect upon their children, especially the female children, may be better imagined than described. Here is a typical case of how five free Indian women were brought before the *Criminal* Magistrate, in Durban, charged with failing to comply with a previous order of the Court respecting payment of the £3 tax. They stated that they were unable to pay, owing to employers' refusing to employ them without their current licence-receipt. Some had been sick ; others said that, although their husbands were working, they could not live and support their families, because they had to pay the £3 tax and also the £1 poll-tax. They were sent to gaol, for contempt of the order of the Court, *for one month each with hard*

labour. Now, the understanding with the Indian Government was that the tax should be recovered by civil process. But the cases are taken by the Criminal Magistrate. In a civil process, by the common law of South Africa, a husband must ordinarily be cited with his wife, and he may then aver that his wife, earning no money, but being wholly occupied in her household duties, is quite unable to procure the wherewithal to pay the amount due. The Magistrate in the case of a summons for civil imprisonment, will then make no order on the summons; but, if an order be made, it is for small payments at regular intervals, failing which, simple imprisonment for a limited period at the creditor's expense, the undergoing of which sentence absolves the debtor from all further obligation to pay. Yet these five wretched women were liable to constant re-arrest and re-imprisonment, until they paid the blood-money exacted by the Government as the price of their "freedom."

In August last, a petition was addressed by some 400 free Indians (men and women), liable to pay the £3 tax annually, to the Legislative Assembly of Natal. Amongst other things, it set forth the following:

> At the time of their engagement for indentured service in this Colony, they were not fully acquainted with the terms of their agreement, neither were they aware of the hardships and disabilities they would have to undergo here as indentured or free Indians.
>
> Your petitioners' position while under indenture is so miserable and the necessaries of life here are so dear, that your petitioners are virtually unable either to save any sum in order to enable them to go back to their country after the expiry of their indentures, or to pay the £3 tax, should they choose to remain in this Colony after giving the best years of their lives under indenture.
>
> Owing to rigorous enforcement of this Act, your petitioners labour under intolerable difficulties, which drive some of them to the commission of criminal offences.
>
> The enforcement of this iniquitous measure on men is cruel enough, but to enforce such a measure on women, who depend more or less on the protection of men, is unprecedented and contrary to all the principles of justice, and quite repugnant to the British idea of freedom and liberty.
>
> Your petitioners venture to quote the case of the Indian woman who was recently sentenced to imprisonment by the Magistrate at Slanger, for failure to pay this very tax and who had her hair cut off.
>
> [*Note*:—The Natal Government have since instructed that no Indian female prisoner is to have her hair cut off save on the instructions of the prison Medical Officer.]

The following petition was addressed last September to the Natal Parliament by the Natal Indian Women's Association:—

> We regard with great shame and sorrow that women who are in default of payment are sentenced to imprisonment, and the very dread of being marched up to the Court and the gaol is enough to numb their intellect and cause terror; to escape from which the aforesaid Act fosters in them a temptation to barter their female modesty and virtue,

The aforesaid Act has been a source of breaking up many a home, alienating the affection of husband and wife, besides separating child from mother

There is no precedent in the legislation of any other country under the British flag where women are taxed for the privilege of living with their husbands or under the protection of their natural guardians.

The state of squalor in which those unhappy people are compelled to live, who just manage to scrape together the annual tax, offers an *admirable medium for the propagation of such* diseases as malaria, ankylostomiasis, tuberculosis, enteric, and dysentery, and it is no doubt largely due to the depression and low vitality caused by these diseases, as well as by financial worry, that the greater number of suicides amongst the "free" Indian population of Natal occur; for though the suicide-rate amongst them is only approximately half as high as amongst the indentured Indians, it is still five times as high as it is, on the average, throughout India. And that these people are in severe financial straits, chiefly on account of the heavy incidence of this taxation. Dr. Charles Banks, Indian Protector of Emigrants, in his last report on Emigration from Calcutta to British and Foreign Colonies, shows that the average savings of the *resident* Indian immigrants in the several Colonies, during the years 1906 and 1907, as far as could be *ascertained, were as follows:*

		1906.			1907.		
		£.	s.	d.	£.	s.	d.
Demarara	...	1	18	5	1	19	9
Trinidad	...	1	0	3	1	2	8
Mauritius	...	5	3	6	4	18	2
Natal	...	1	6	8	1	1	2
Fiji	...	0	11	7	0	10	8
Jamaica	...	4	15	10	4	14	8
Surinam	...	1	3	6	1	5	10

The figures include, in the case of Demarara, Mauritius, Jamaica, and Surinam (but not the other territories) the value of landed property in the possession of immigrants, whilst the Fiji figures are incomplete. But the cost of living is much smaller everywhere than in Natal.

The Lobito Bay Scandal.

A further indication of financial stress amongst the "free" Indian population was the Lobito Bay scandal. Faced with starvation, and dreading imprisonment for non-payment of the annual licence, many were induced to agree to work on the Benguella Railway, in Portuguese West Africa. For a month before consent to this could

be obtained from the Indian and Imperial Government, some thousands of them were fed and housed by the contractors. Contracts were entered into, most of the Indians undoubtedly believing that they would be allowed to return to Natal. One of the clauses of the contracts read: "And the said contractors undertake at the expiry of this Contract, or any renewal thereof entered into with the Immigrant, to return him, his wife, and family *to the Colony of Natal*, free of all cost to the Immigrant." It was stated by the *Natal Mercury* that some 2,000 (others said 3,000) labourers and their families were despatched to Lobito Bay. The contracts included provisions to the effect that money that was owing to the Natal Government, in the shape of licence-fees and arrears of taxation, was to be paid over to the authorities in instalments, and deducted from the monthly wages. From the Protector's Report, it is learnt that, of a minimum of 2,000, who left Natal in March, 1907, 658 returned to Natal, and 948 were prohibited from returning and sent to India, about a year later, making a total of returned Indians of 1,606. Thus 20 per cent. of the indentured men and women were officially unaccounted for. What had happened to them? The following statement was made to, and published in, the *Natal Advertiser*, four months after the first shipment left for Lobito Bay and it has never been seriously impugned:—

> The Indians who went from Natal to Lobito Bay got sufficient rations in the way of rice, dholl, and salt, but there is not sufficient water. They are gasping for water. They get only a pint a day each, sometimes only half a pint, and often not enough to fill a condensed milk tin.
>
> I spoke to the head sirdar, named Rungasammy, and to another sirdar, named Ramsammy, and they told me that most of the Indians who went from Durban had either died or cleared off to Damaraland. Those who have gone away are the bachelors, but the greater part of the deficiency is accounted for by deaths. Of the 1,258 Indians despatched from here only 700 remain. They die from want of water and fever. I do not know what fever it is; it is local, and not malaria.
>
> I saw one Indian lying in a tent in a dying condition, and it looked as if he could not live another five or six hours. His body was swollen up. As soon as he saw men he cried out feebly, 'Give me a drop of water.' I said that I had no water, and that I was a stranger there. The men are satisfied with the work and with the rations, but the great complaint is the want of water. To look at, the water which these poor men drink is nice and clear, but to the touch it is sticky and oily. These Indians are right away ahead of the rail-end, and are engaged clearing bush and levelling the ground. Water is carried on camels from the railhead to where these people are working.
>
> I saw Mr. Groom, one of the white bosses, and asked him for a job, but he could not give me one. He gave me a letter to the manager for Griffiths and Co., but he also could do nothing for me, saying all the places were filled up. I did not want to go on labouring work, but to remain at Lobito Bay. I did not gather from any white man up there anything as to the conditions of these Indians. My information was derived from the sirdars and from the Indians

themselves. Indian labourers were crying out for water, and before they could be issued with their share they have to get tickets signed by a sirdar. 'They say, "How are we to live with this little drop of water. We have not had a wash since we left Natal.' The women were all crying, too; their clothes are in a filthy dirty condition, and they are infested with swarms of flies. I did not hear the women say anything about their relations being dead.

I went to Lobito Bay to seek work and did not get it. I arrived at Lobito Bay on June 2, and I saw these poor people on June 8, ten miles off the railhead, remaining with them a day and a night. They gave me letters to bring to Durban, as they complain that former letters addressed here have never reached their destination. When I was there, there were one hundred tents formerly occupied by Indians who had either died or cleared. I made actual inquiries on the spot regarding medical attendance, and found that there was no doctor to attend to cases of illness.

Indian Opinion, for the 14th March, 1908, contained the following corroboration from some of the returned men :

The water they had to find themselves by digging. Large numbers were smitten with sickness, which caused the body to swell, and produced sores; the returned men say that half the people died during the first three months. During the whole eleven months they were at work, not a tent nor a hut of any kind was provided for them. Those who could, erected small huts of wood and grass for themselves; others simply took shelter under a friendly tree and trusted to God for protection from lions, tigers, and other wild beasts which prowled about the neighbourhood. As, after each month or so, the camp had to be shifted to a distant place, the huts which they had made became useless. When the men complained, it is alleged that flogging with a sjambok (rhinoceros-hide whip) was resorted to, and that one died under this treatment.....A number of their companions have been detained on the boat by the Immigration Department, who will not accept their domicile certificates, because they have not the two thumb impression imprinted on them. The reason why these certificates did not bear these impressions was, so their companions state, because, at the time of leaving Durban for Lobito Bay last year, several were hurried on to the boat at the last moment.

The Indian National Progressive Association addressed a letter to the Natal Indian Congress, still further corroborating the above allegations, stating that large numbers of the Indians, who had gone to Lobito Bay, had died of beri-beri, dysentery, and fever. The letter continues :

The scanty rations served out were not sufficient to keep body and soul together.. ...Owing to the scarcity of food (we are informed) some had sold their children to the Dutch and Portuguese farmers and others had left theirs to wander about.

The Natal Indian Congress took the matter up, and a number of the principal Indians in Natal, through the courtesy of the officials of the Immigration Department, saw the men who were being detained. The men complained bitterly that, although many of them were of over ten years' standing in the Colony, they were being sent to India against their will. They were said to have stated that they would have to starve in India, as they had little or no cash with them, and they knew India less than they did Natal. There

were over 390 of them restricted. Of these, 373 embarked for Calcutta or Madras by the *S. S. Congella*. The Congress immediately cabled to the Imperial Government, protesting against the deportation of men without inquiry, who claimed domicile in Natal. At the same time, they made representations to the Natal Government, who denied that the men were domiciled (without giving any valid reason for their denial), adding that "although some of the Indians would no doubt have remained in the Colony if they had been allowed to do so, yet the Protector knows of no serious objections on the part of the Indians to their being sent back to their own country (!!)." Apparently, however, the Natal Government began to feel uneasy as to their position, for, when the next batch of Indians, returned from Lobito Bay, were restricted from entering the Colony, the Principal Immigration Restriction Officer refused an application from the President of the Natal Indian Congress, representing the Indian community of the Colony to see the interned men, in the following naive terms :

> I beg to acknowledge the receipt of your letter of the 7th inst., and to confirm the reply I gave over the telephone to Mr. D. Mahomed on Saturday morning, *viz.*, that the position of the Indians now interned at the Bluff was receiving the careful attention of the Protector of Indian Immigrants and of this Department, and *that in the interests of the people themselves it was considered inexpedient to open the compound to visitors.*

There the matter rested, and nothing further has been publicly known of it beyond the fact that some hundreds of men, who could never have been removed from Natal, their second home, had they remained there, and who understood that they would certainly be able to return when they agreed to go to Lobito Bay, were, against their will, penniless and friendless, sent back to India, without being given the opportunity of proving their domicile, turned out of the country of their adoption on a flimsy pretext, after having suffered agonies in Lobito Bay, after having been drained of the last penny owing to the Natal Government, and being refused the opportunity of consulting with the leaders of the Natal Indian community as to their legal position. Thus, the Colony of Natal got rid of at least 1,500 of its Indian population, partly by death, partly by deportation, because the poor wretches could not pay the dead-weight of taxation that was attached to them as the price of freedom! How heavy is the responsibility of the Government of India for agreeing to the imposition of this premium upon slavery!

From what has already been said, it is plain that, if the Natal Government were to abolish the use of indentured labour, there would yet be a plentiful and cheap supply of Indian labour for

the estates, farms, mines, and public services, derived from the free Indian population, the bulk of which is ever on the verge of starvation. Costs of labour would be reduced by a reduction in the cost of recruiting, supporting a large immigration staff, and maintaining expensive quarantine establishments. And, with a higher rate of pay, better housing and diet, and a greater regard for the human needs of the employees, it is obvious that Natal would benefit by a greater degree of labour efficiency, a better output of energy, and an augmented production, phenomena that have followed a more liberal labour policy all the world over—even on those estates in Natal where the best treatment is accorded to the labourers.

The Natal Indian community feel so keenly on the subject, that they have petitioned the Government to stop the system immediately. They will never consent to purchase the removal of a single disability for the trading class, who can, to some extent, protect themselves, at a cost so heavy to their unfortunate brethren, who are victimised, not so much by any particular circumstance or series of circumstances of their employment, nor even by the employment itself, but by the very nature of the relations that must inevitably tend to establish themselves under this system between employer and employed. The writer has dealt very lengthily—he trusts not too lengthily—with the question of indentured Indian immigration into Natal, largely because he holds it to be an Imperial scandal second only in importance, in South Africa, to the treatment of the Transvaal Indians, with the tacit, even if without the open, knowledge and consent of the Imperial Government. He hopes that the foregoing *exposé* will assist in removing a dark blot from the Empire's escutcheon.

The Franchise—Political and Municipal.

Having now dealt with matters affecting the very existence of the Natal Indian community, the remaining grievances are, in comparison, of minor, but, nevertheless, of considerable importance. The first of these is the question of the franchise, political and municipal. Under the general franchise law of Natal prior to 1896, Indians enjoyed political franchise rights on an equal footing with their European fellow-colonists. The franchise requirements were the ownership of immovable property worth £50 or payment of an annual rental of £10. In 1894, there were, on the official voters' roll, 9,309 Europeans, and 251 Indians, of whom 203 were living at the time, the populations being then approximately

equal. Thus, the European vote was, in that year, 38 times as strong as the Indian vote. Yet the Natal Government (it will presently be seen for what reasons) pretended to believe that there was a real danger of the European vote being swamped by the Indian. Accordingly, they introduced into the Legislative Assembly a Bill disfranchising all Asiatics save those whose names were already rightly contained on any voters' list, the preamble of the Bill asserting that the Asiatics (*i. e.*, the British Indians) were not acquainted with elective representative institutions. This was of course, a direct attack upon Indians as a race, and because of the racial taint in this legislation, the Indian community vigorously opposed it, memorialising the Natal, Indian, and Imperial Governments.

In communicating the Home Government's decision to the Governor of Natal, Mr. Chamberlain observed:

> Your Ministers will not be unprepared to learn that a measure of this sweeping nature is regarded by Her Majesty's Government as open to the very gravest objection. It draws no distinction between aliens and subjects of Her Majesty, or between the most ignorant and most enlightened of the Natives of India. I need not remind you that among the latter class there are to be found gentlemen whose position and attainments fully qualify them for all the duties and privileges of citizenship, and you must be aware that in two cases within the last few years the electors of important constituencies in this country have considered Indian gentlemen worthy, not merely to exercise the franchise, but to represent them in the House of Commons.

As a result the Act was recalled and replaced by one declaring that:

> No persons shall be qualified to have their names inserted in any list of electors who (not being of European origin) are natives or descendants in the male line of natives of countries which have not hitherto possessed elective representative institutions founded on the Parliamentary franchise, unless they shall first obtain an order from the Governor-in-Council, exempting them from the operation of the Act.

It also exempted from its operation those persons whose names were rightly contained in any existing voters' list. The measure, having been previously submitted to Mr. Chamberlain, was approved by him and passed, and, notwithstanding further protest on the part of the Natal Indians, was accepted by the Imperial Government, and has ever since been laid in the Colony. The Act, though ostensibly, like the later Licencing Act of the Colony, of general application, was specially intended to be directed against the British Indian Colonists, who were thus disfranchised, even though born in the Colony and knowing no other home, living in European fashion, speaking English as their mother tongue, barristers, doctors, and teachers alike.

What the *Natal Mercury*, the then Government organ, thought of the measure at the time may be gathered from the following extract from its issue of the 5th March, 1896:

> The fact of the matter is that, apart from numbers altogether, the superior race will always hold the reins of Government. We are inclined to the belief, therefore, that the danger of the Indian vote swamping the European is a chimerical one. We do not consider the danger of being swamped is at all a likely one, as past experience has proved that the class of Indians coming here, as a rule, do not concern themselves about the franchise, and, further, that the majority of them do not even possess the small property qualification required.

But the real reason for this racial disqualification was enunciated in the same journal, some five weeks later, as follows:

> Rightly or wrongly, justly or unjustly, a strong feeling exists among the Europeans in South Africa, *and especially in the two Republics* against, Indians or any other Asiatics being allowed an unrestricted right to the franchise. The Indian argument, of course, is that there is only one Indian to every 38 European voters on the poll at present with the open franchise, and that the danger anticipated is imaginary. Perhaps it is, *but we have to deal with it as if it were a real danger*, not altogether, as we have explained, because of our views, but *because of the views we know to be strongly held by the rest of the Europeans in the country. We do not want isolation again under the far greater and more fatal ban of being a semi-Asiatic country, out of touch and out of harmony with the other European Governments of the country.*

Thus, we observe, even as early as 1896, the cloven hoof of the Transvaal, and we mark the baleful influence of that dark land upon the welfare of British Indians, elsewhere in South and East Africa, later emphasised by the attempt of Natal to copy Lord Milner's misguided effort to enforce his famous Bazaar Notice; by the successful inducement of Natal unlawfully to prevent Transvaal Indians from landing at Durban on their way back to their homes from India; by the equally successful inducement of the Portuguese Province of Mozambique to illegally deport to India domiciled Transvaal Indians pushed over the Portuguese border by Transvaal policemen; by the imitation on the part of Southern Rhodesia of the hateful Registration Law of the Transvaal, with even worse additions; by the attempt of the South African settlers in Nairobi, British East Africa, to drive out the Indians from the Highlands of that territory; and by an attempt, on the part of the commercial classes of German East Africa, similarly to get rid of Indian traders who have made German East Africa a commercial possibility, and who as Herr Dernberg, the German Colonial Secretary, has admitted, are a valuable asset to Germany's Colonial Empire.

The Times (London), at this period, even went so far as to challenge the statement that the Indian in India had no franchise, saying the argument that he has no franchise whatever in India

was inconsistent with the facts. But the goal of the Colony has never been merely disfranchisement of the Indian. It has been prepared to go the length of his absolute extinction, at least as a free man. He may be, perhaps, allowed to lead a dog's life, indentured on an estate, and, provided he is content to remain a pariah, a social outcast, without a desire to aspire higher, he will be tolerated by the mass of his fellow-colonists. Natal does not want freedom for its Indian population; Natal Indians must be kept in bondage from the cradle to the grave.

British Indians in South Africa have never sought political power; but they have always asserted their equal right to the political franchise, provided they were otherwise qualified. Where, however, they are admitted to the political franchise, as at the Cape, recognising the intensity of European opposition, they have refrained, as a rule, from exercising their electoral privileges, on the principle that it is ever better to let sleeping dogs lie.

Whilst, however, by a grave stretch of language, it might conceivably be found justifiable to exclude British Indians in Natal from the political franchise, there can be no doubt that there is absolutely no justification for the attempt that is now being made to deprive them of the Municipal franchise. Indeed, the late Sir John Robinson and Mr. Escombe, formerly Premiers of Natal, expressly promised the Indian community that their municipal privileges would never be taken away from them. For no one could truthfully say that Indians in India had no municipal privileges. Mr. M. C. Anglia, for instance, one of the Joint-Honorary Secretaries of the Natal Indian Congress, was himself, at one time, a Municipal Councillor of Rander, in the Surat District. Yet in the Municipal Laws Consolidation Bill, passed by the Natal Parliament, in 1906, there is a deliberate effort to deprive the Indian citizens of Natal of all power and voice in the conduct of the municipal affairs of the Colony. And the attempt has been made insidiously. By a cunningly devised trick to disarm criticism, Section 22 (*c*) of the Bill deprives of the Municipal franchise all who are not exempt from the liabilities imposed by Law 8 of 1896—that is to say, any person politically disfranchised was to be municipally disfranchised also! It was actually sought to connect, in the public mind, political and municipal disabilities, and, by confusing public opinion, to go back upon the pledges, given in the Natal Parliament ten years before, by the two most prominent statesmen of the Colony.

A petition was immediately addressed by the Natal Indian Congress to Lord Elgin, protesting against the proposed measure, and

pointing out that many Indians in Natal made large annual contributions to the municipal exchequer of the Colony. Lord Elgin, some months afterwards, and consequent upon correspondence with the Government of India, addressed a despatch to the Governor of Natal, containing the following further objections to the Bill :

Sections 200—206 of the Bill, which re-enact the provisions of Law No. 21 of 1888, provide for the registration of members of uncivilised races, which term is defined in section 7 as including all barbarous or semi-barbarous races and all Indians introduced as indentured labourers, not actually under indenture, *and their descendants*, unless their status is above that of labourers, or domestic servants. This definition, it may be noted, *goes beyond the law of* 1888, in including descendants of indentured Indians. The Government of India are anxious that these sections should not apply to Indians..... ..If, as I gather, this is the only part of the Bill which affects those who come under the definition in section 7, sub-section (7), of 'uncivilised races', that definition could be amended by the omission of the words relating to Indians, and thus the grievance, which, even if it were only a sentimental one, is very keenly felt in India, arising from the classification of some of His Majesty's Indian subjects with 'barbarous or semi-barbarous races', would be removed ..... . The Government of India further desire that the disabilities imposed on Indians by section 182 (37 and 38) and section 208 of the Bill, may be removed or mitigated. The term 'coloured persons' according to section 7 (5) of the Bill, includes 'coolie,' and, as your Ministers are aware, that word is frequently used in South Africa as a general term, including all Asiatics of whatever standing. The Secretary of State for India cannot but regard the subjection of respectable natives of India to the degrading restrictions of sections 182 (37 and 38) and 208 of the Bill as indefensible, and, indeed, I gather from your telegram of the 20th January that your Ministers, in proposing the Bill, did not contemplate the extension of the operation of these provisions to persons of superior class ;

[It is remarkable that Colonial Ministers, in their dealings with the Imperial Government, never "contemplate the extension of the operation of these provisions," yet subsequent Ministries find it convenient to ignore previous protestations, and actually do extend "the operation of these provisions" when a suitable opportunity offers !]

and that, in practice, the word 'coolie' is not so interpreted. There remains, however, the fact that, as indicated in my predecessor's despatch, No. 101 of the 9th December, the definition of the word is not clear, and cannot bind the Courts not to give it the more extended meaning.

Throughout the despatch, it is Lord Morley and the Government of India speaking, and not Lord Elgin, and it is now known that the Imperial Government are prepared, without a word of consultation with the Natal Indian community, to sacrifice the Indian Municipal franchise, if the Natal Government are prepared to make the above alterations and to amend the Licensing Law of the Colony, giving the right of appeal, on matters of fact, to the Supreme Court. This the Natal Government have so far declined to do, and the Bill is accordingly indefinitely hung up. But the point to be considered is that the Imperial Government are at any time pre-

pared to bargain away some of the most valued public rights of the Natal Indians without reference to their views in any way. The Natal Indian community has emphatically protested against this attitude on the part of the Imperial Government, pointing out that the two matters—the municipal franchise and the right of appeal under the Licensing Law—are entirely independent of each other, and that each should be dealt with on its own merits. It declines to accept a compromise of this nature, and refuses to purchase one act of justice at the cost of an additional act of injustice. That they consider to be the policy of robbing Peter to pay Paul, with which they refuse to have anything to do. Can any honourable man say aught against them for adopting so disinterested a standpoint ?

Indian Education in Natal.

Education among the children of the indentured Indians is almost non-existent. No provision is made for it in the indenture laws of the Colony. Here and there a humane employer offers rations to the children of his labourers, conditionally upon their attendance at the elementary education classes that he provides. But these cases are exceptional, though they do credit to the kindly thought of the employers concerned.

The history of education amongst the non-indentured Indian population of Natal is a very painful one. Prior to the year 1899, the Public Schools of the Colony were open to all, without any distinction whatever as to race. In that year, however, Sir Henry Bale (he has been dubbed " Bale the Conscientious "), who was then Attorney-General and Minister of Education, and is now Chief Justice, with a view to carrying out the colour-policy of the Government of the day, of which he was a member, stopped Indian children from going to the Public Schools attended by European children, and created a Higher Grade Indian School in Durban for those Indian children, belonging to the better class, whose parents were able and willing to pay the required school-fees and conform to European habits and customs. Whilst the Indian community did not willingly consent to this, yet, in order not to embarrass the Government by insisting upon Indian children attending schools where European children were taught, it acquiesced in the position, and patronised the two Higher Grade Indian Schools, which were, as promised, on exactly the same terms as the ordinary schools of the Colony as regards fees, staff, curriculum, and discipline, and the schools progressed rapidly with the support given by the Indian community. The girls were not affected by the new scheme, but continued to go to

the ordinary schools as usual. In August of 1905, however, the newly-appointed Superintendent of Education, Mr. Mudie, who seems to have been somewhat more consistent in his colour-prejudice, ordered the dismissal of all Indian infants and female children from the schools attended by European children, and established a school for them within the premises occupied by the Durban Higher Grade Indian School, teaching them separately from the senior boys. About this time, too, an attempt was made by Mr. Mudie to take the building set apart for the Higher Grade Indian School, and use it exclusively for Indian and "coloured" (*i. e.*, half-castes of mixed Kaffir and European origin) children, under the name of "Coloured" School. The Indian community, however, strongly opposed the innovation, and the scheme fell through. Towards the end of 1905, the girls and infants, who had been dismissed from the other schools and sent to the Higher Grade Indian School, were also dismissed summarily from this school. The community made a further protest and these pupils were re-admitted, in February, 1906, and were taught, as before, separately, by a competent lady-teacher. All went well until August of that year, and the total strength of the school, in these favourable conditions, rose to about 250 pupils, some 30 of whom were girls. At this time, unfortunately, a new Assistant Inspector of Schools was appointed, of Colonial birth, who appears to have been affected by violent anti-Indian prejudice. He gave notice of dismissal to all the infants, and insisted upon the senior boys and girls being taught together, but the Indian community, with its traditions of sex-separateness, strongly protested, and the order for dismissal of the infants was withdrawn, though the co-education of boys and girls continued, notwithstanding repeated objections on the part of the community. As a result of this indiscreet policy on the part of the Government, the number of girls attending the school has been reduced from 30 to 6 small children. In August, 1907, a new order commenced. The Infants' Class and Standard I. were abolished, and the school, shorn of these two classes, started from Standard II. The community, in July, 1908, again petitioned against this, but their protest was ignored by the Government. Shortly after this, the Colonial Secretary moved, in Parliament, that the vote for the Higher Grade Indian School be reduced by £675 and that the item of £150, hitherto allowed for the training of Indian teachers, be deleted. This was carried without a word of dissent on the part of any member, nobody, apparently, appreciating the seriousness of the position—for, though every legislator of

Natal is, in theory, guardian and trustee of the interests of the unrepresented Indian community, in practice, he entirely ignores those interests. The reduction of the vote for Indian education was made allegedly on grounds of economy ; yet, simultaneously, the Colonial Secretary obtained an increase in the vote for Native [Kaffir] education of £1,000, with an additional £250 for Native Training Institutions. In view of this reduction in the Indian Education vote, the Minister of Education issued instructions to dismiss all children above the age of 14 years from the Higher Grade Indian School, in October, 1908, an order that meant that forty to fifty Indian children at this school alone would be deprived of educational facilities, seeing that there was no other public institution where they might prosecute the studies. Meetings were called by public representative bodies of the community and strong resolutions of protest were recorded and forwarded to the Government, who, as usual, ignored them. On the 21st October, the Government were asked to receive an Indian deputation on the subject. This they refused to do on the ground of "pressure of public business." Three days later, they were asked to suspend the notice of dismissal pending further enquiry. This request, likewise, was rejected. The community, driven to desperation by this attack upon the future welfare of Indian children, then made an *ex parte* application to the Supreme Court for an injunction against the Government, restraining them from dismissing the children. The application, being an *ex parte* one, was refused, and the community thereupon prepared to make another application in proper form, when the Government, on the 30th October, withdrew the notice and ordered the re-admission of the children. On the 23rd December last, however, the notice was re-issued with an intimation that, as from the 1st February, 1909, children over the age of 14 years would not be re-admitted to the school.

So soon as it became evident that the community were determined to fight the matter to the bitter end, the Government issued a series of Regulations in terms of the Education Act of 1894, prohibiting Native (Kaffir), Indian, and "coloured" children from being admitted to schools other than those specially provided for them ; declaring that no free scholars should be admitted to Indian schools and no pupils over the age of 14 years would be permitted to attend any Government school for Indians ; stating that no pupils under Standard II. should be admitted to an Indian school under European teachers ; declaring that no subject not included in the standard syllabus for Primary Schools should be

taught during school-hours in any Indian school in charge of European teachers, and providing that no pupil who had passed Standard IV. should remain at an Elementary Indian School.

A petition was at once forwarded to the Government, objecting to these Regulations on the following grounds: that they were calculated to inflict grievous hardship upon the Indian community, they threatened the future of Indian education in the Colony, and they represented a breach of faith with the Indian community on the part of the Government. The Clause prohibiting Indian children from attending schools other than those specially provided for them, was attacked as

A direct violation of the definite promise made by the Government, in 1890, whereby Indian parents sent their children, not by reason of any legal disability, but as a voluntary act, to the specially provided Higher Grade Indian Schools, which were to offer the same teaching facilities, to be as highly equipped, and as adequately staffed, in every respect, as the schools attended by Europeans.

It was pointed out that

Whilst the act of grace, performed by the community in 1890, was carried out in order, so far as possible, to bring about a modification of race and colour prejudice on the part of the white Colonists, its good faith has been presumed upon, and advantage has been taken of its moderation to impose *by indirect means, a legal* disability upon Indian children.

It was strongly felt that "such a disability should have been imposed, if at all, only by the agency of an Act of Parliament, which would have been subject to the Imperial veto." Here we have one more example of how South African Ministries govern British Indians, amongst other non-European peoples, by Regulations, which do not need to be reserved for the expression of the Royal assent, as is requisite in the case of Acts of Parliament differentiating between the European and non-European sections of the community to the detriment of the latter.

It was further pointed out that

Whereas no age limit exists compelling European children to leave school, and the age limit to leave school, for children attending Coloured Schools, is fixed..... at sixteen, the age fixed . .. for children attending Indian schools to leave is. .... fourteen; furthermore, whilst no restriction is placed for the admission of free children in other schools, the children attending Indian schools are denied the benefit of free admission.

The provision made, that no Indian child who had not passed Standard II. could attend an Indian school where tuition was given by a European Staff, but that such a child must attend what is called an Elementary Indian School, was condemned as being

In direct conflict with the promise made by the Government, in 1890, whereby the teaching, equipment, accommodation and discipline of Indian and European schools should be alike.

The fact was emphasised that

The Elementary Indian Schools are nothing but the old indentured schools under another name and another authority, and that they are old, badly-built, badly-ventilated, badly-situated buildings, affording entirely insufficient accommodation, incompletely equipped, with unqualified teaching staffs, and lacking in effective discipline, and that these defects are fatal to the welfare of Indian children of tender years whom it is sought to send to these Institutions.

A further clause of the petition stated that British Indians in Natal

Feel keenly that, ever since 1905, efforts have been made steadily to render nugatory all attempts made by the Indian community to further its higher development and intellectual progress through the efficient training of its children, and that the Government have entirely failed to appreciate the growing needs of a community, many of whose children are born in the Colony, and who know no other home than this.

It was also declared that the Regulations were regarded by the community as detrimental to its welfare, and "a source of constant friction and of communal humiliation." The usual reply came saying that the Government could not see their way to accede to the petitioners' request.

It is clear that the Natal Government have made, during the last four years, a deliberate attempt to destroy Indian education utterly. The Regulations are a fraud upon the Natal Indian community, and show a contemptible desire on the part of a powerful Government to go behind distinct and definite pledges and solemn assurances, made by them to it. Everything possible has been done to ruin the success of the Durban Higher Grade Indian School, even to the removal of its Head-master against the wishes of the parents of the pupils attending the school. Apparently, it has been the Government's intention to degrade the school to the low level of its own Government Indian Schools, the miserable quality of the instruction wherein is a matter of shame to the whole Colony. The only remaining hope for the community is to render themselves independent of the public schools, to found their own educational institutions staffed by highly-qualified Indian teachers, capable, too, of instruction in the vernaculars. Will India help?

Other Natal Grievances.

Except as interpreters, British Indians in Natal have been excluded from Government Service, and have been debarred from competing in the Civil Service Examinations, which they formerly had the right to do.

Those who are the descendants of Indians formerly under indenture, even though of high educational and professional

attainments are, in theory, at least, and often in practice, too, subject to the provisions of the Municipal Vagrancy Regulations, and are required to be within doors after nine o'clock at night, unless they carry a special permit securing them from molestation at the hands of Kaffir policemen.

By virtue of the provisions of the Income and Land Assessment Act of 1908, Indians have been subjected to an avowed system of class-legislation, in that their occupation of lands as cultivators has been declared by law to be non-beneficial [and Natal owes its very existence to the labours of the Indian cultivator!]. Sub-section 2 of clause 34 of the afore-mentioned Act declares that:

> Land owned by Europeans shall not be deemed to be beneficially occupied if the same was occupied solely by Natives, [Kaffirs] or Indians, unless such land is not suitable for European cultivation.

And the tax upon land non-beneficially occupied is *four times as high* as it is upon so-called beneficially occupied land!

The foregoing are among the principal grievances and disabilities of the Indians of Natal, which prides itself upon being the *British* Colony of South Africa. Many of the Natal Indians, including the Colonial-born young men, served, during the Anglo-Boer War, in the British Army, as stretcher-bearers. They raised men and money to carry on the operations of the Ambulance Corps (frequently mentioned in despatches), and even offered to share in active Military service, but their request was refused by the Military authorities. Others, again, spent large sums of money, notably Mr. Rustomjee Jeevanjee (he is now suffering, for the sake of his countrymen, in a Transvaal gaol), who assisted and maintained Transvaal refugees for many months at the rate of £ 50 per month out of his own purse. No longer ago than 1906, an Indian Stretcher-Bearer Corps served with the Natal Volunteers during the Native Rebellion, being specially mentioned in despatches. They were supplied and paid by the Natal Indian community. But all these services count for nothing. The development of the Colony's commerce, trade, and industries was nothing to the Indian in the view of the average Natal Colonist. "Coolie" he is, and "coolie" he must remain, so long as he stops in South Africa. And all these hardships have been imposed upon him against the desire but with the consent of the Imperial Government. What must the Colonial-born Indian think of it all?

THE TRANSVAAL.

The Transvaal has always been the "awful example" of South Africa, in regard to the stupid ignorance and thoroughness of its anti-Asiatic policy. For close upon a quarter of a century the powers of darkness have held sway in what is one of the most recent of the Self-Governing Colonies of the Empire. Article XIV. of the London Convention of 1884 had provided that :

> All persons, other than natives, conforming themselves to the laws of the South African Republic, (*a*) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic, (*b*) will be entitled to hire or possess houses, manufactories, warehouses, shops and premises, (*c*) may carry on their commerce either in person or by any agents whom they may think fit to employ.

And though Indian traders had entered the Transvaal Republic some three years before this Convention, the Boer Government proposed to interpret the term *Natives*, occurring in the London Convention, to include *Asiatics*; but this contention Her Majesty's advisers rejected,

> but they were not unwilling for "sanitary reasons" to sanction legislation restricting Asiatics as to their residence to bazaars or location with the proviso that British Indians of the trader class should be left entirely free.

In 1885, a law was passed, No. 3 of that year, enacting, among other things, that "the so-called Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Dominion" should be incapable of obtaining further (citizenship) rights of the South African Republic, and of becoming owners of fixed property in the Republic. This provision was not to be retrospective. Those, who settled in the Republic, for the purpose of carrying on a trade or any commercial occupation, were required to register, at a cost of £ 25 (afterwards reduced to £ 3) subject to heavy penalties. The Government was given the right to appoint certain streets, wards, and locations for them to live in.

A Volksraad Resolution of the 24th January, 1887, ordered that Law 3 of 1885, should be amended so that the "coolies, &c.", could own fixed property in such streets, wards, and locations as the Government should appoint *for sanitary purposes*, as their residence; and no distinction was made in favour of "British Indians of the trader class," as Her Majesty's advisers had desired.

There is, in existence, an interesting publication, at the instance of Lord Milner, when High Commissioner of South Afrien, entitled "Laws, Volksraad Resolutions, Proclamations and Government Notices relating to Natives and Coolies in the Transvaal". From the title, it appears that even Lord Milner

could not distinguish between a "coolie" and a merchant or lawyer, or between a "coolie" and a Kaffir. However, a perusal of its pages affords matter of considerable interest. It appears that the business-premises of many Indians were situate outside of locations, and that the owners of the businesses actually had the temerity to reside on their business-premises. Some members of the Volksraad got to learn of this dreadful state of things, and a Volksraad Resolution of 1888, instructs the Government to institute an enquiry, and, *if possible*, to prohibit the living in such business-places; further should it appear, after enquiry as to that end has been made, that the further dealing and mode of life of the said races conflict with the interests of the white inhabitants, especially in so far as the maintenance of the sanitary condition of the towns is concerned, the Government was instructed in such cases to have the law amended in all such respects as might be necessitated. Evidently, the enquiries came to naught, or, at any rate, their results were not acted on, for another Volksraad Resolution, of 1892, "having regard to the fact that coolies or Asiatics still continue to open stores and trade in towns in the names of white persons," instructed the Government "to take stringent measures in order to prevent coolies, Chinese, or Asiatics from trading within the towns, and to cause all coolie shops which were opened subsequently to 1889 to be removed out of the town, and as soon as the contracts, which were concluded before 1889, shall have expired, in like manner to have coolies, Chinese or Asiatics holding such contracts removed out of the town". This Resolution does not seem to have had more effect than the previous ones (like another place, the Statute-book of the Transvaal was, at this time, paved with good Resolutions!) for, in 1893, another Resolution was passed to the effect that "Law No. 3, 1885, as subsequently amended, shall be strictly applied, so that all Asiatics and other persons falling under the said Law shall be obliged to confine themselves to the appointed locations both for residence and trade," with the exception of those of them who held unexpired leases. Five years afterwards, in 1898, to wit, the position was much about the same, for we find that a Government Notice was published, at the end of that year, ordering the authorities to issue notices to "the coolies and other Asiatic coloured persons who are not yet residing and carrying on business in the locations appointed for that purpose, but, in contravention of the Law, reside and carry on business in a town or stand township or in other places not appointed for that purpose," to go and reside and carry on business in the location appointed for the purpose before the 1st of January, 1899.

The principal points to be observed are these: The Boer Government had a general contempt for coloured people, and therefore, for Asiatics. They represented a people descended from the old slave-owners of the Cape Colony. Apart from this general feeling of contempt, there was no special dislike for the Indians. The latter's cause, however, was taken up, for political reasons, by the British Government, and as a result, the Indians became a sort of shuttlecock between the two Governments. At every possible opportunity, the British Agent intervened on behalf of the Transvaal Indians, to the no small annoyance of the Republican Government. When, therefore, the European trade-competitors of the Indians commenced their anti-Asiatic agitation, the Boer Government lent a not unwilling ear, though it was plain that, as the interests of the Boer farmer were not in any way threatened, the Transvaal Government were not very active in their putting of the law into operation against the Indians who infringed it. Moreover, there was no penalty imposed by it upon those Indians who lived and traded outside of locations. That the people of the country benefited by the presence of the Indian trader is clear from a statement recorded in the Proceedings of the Volksraad, in 1896, that "the European store-keepers charged poor people very high prices for the staff of life, while the coolies charged much less." And, on one occasion, President Kruger refused, when requested to do so by a deputation of European store-keepers, to do away with the Indian hawkers, on the ground that they were "useful" to his people.

The Indian traders had entered the Republic in 1881, in small numbers, and as they increased, "they aroused the jealousy of white traders, and soon there sprang up an anti-Indian agitation initiated by Chambers of Commerce, wherein the British element was predominant."* It will be observed, too, that, whereas, on the urgent representations of the British Government, residence in locations was only required of those Asiatics of lower degree who, *for sanitary reasons*, might be considered undesirable residents in the European portions of the towns, the Republican Government eventually tried to read into the expression "for residence" the meaning of "for trading purposes," likewise. As a result of the dispute that arose on the subject between the British and Boer Governments, the matter was referred for abitration to the Chief Justice of the

* Statement of the British Indian community to the Transvaal Constitution Committee, 1906.

Orange Free State, who set aside both readings, deciding that the interpretation of Law 3 of 1885 rested with the ordinary tribunals of the country—a very non-committal reply. Matters could not remain at this stage, and a test case was accordingly taken before the High Court, and by a majority of two to one, the interpretation of the Government was upheld. But Mr. Chamberlain, who conducted the negotiations on behalf of the Indians, refused to be put off in this manner, and, whilst accepting the decision of the Court, reserved his right to make further friendly representation to the Republican Government on the matter. There was, besides, considerable difficulty in removing all the Indian traders to the locations that now loomed so near, for it was explained that "the coolies would (if a location were fixed in one place) "flock to the place where there was none."* One petition against the Indian traders made reference to "the dangers to which the whole community is exposed by the spread of leprosy, syphilis and the like loathsome diseases, engendered by the filthy habits and immoral practices of these people."† As against this, however, a Dutch petition, signed by 484 burghers, stated that the withdrawal of the Indian traders would be a hardship, whilst another, signed by 1,340 Europeans including some of the principal wholesale firms, declared that the sanitary habits of the Indians were equal to those of Europeans, and that the agitation was due to trade-jealousy. On one occasion, when the Boer Government refused to issue more licences to British Indians, the British Agent recommended them to tender the licence-fees, and, if the licences were still not issued, to trade without licences. A little later, when the Government threatened to prosecute those traders who were carrying on their businesses without these licences, about 40 of them were actually arrested, and the British Agent warmly approved of the advice given them to refuse to pay bail or fines, but to go to gaol. Eventually, the grievances of the Transvaal Indians became a *casus belli* against the South African Republic. At Sheffield, in 1899, Lord Lansdowne said:—

"Among the many misdeeds of the South African Republic, I do not know that any fills me with more indignation than its treatment of these Indians. And the harm is not confined to the sufferers on the spot; for what do you imagine would be the effect produced in India when these poor people return to their country to report to their friends that the Government of the Empress, so mighty and irresistible in India, with its population of

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* Volksraad Debate, 1896.

† Transvaal Green Book, No. 2, pp. 19—21.

300,000,000, is powerless to secure redress at the hands of a small South African State ?"

At the end of the war, Mr. Chamberlain, Lord Milner, and Lord Roberts united in promising complete relief, but Lord Milner, at a time when, by a stroke of the pen, he could have prevented all the misery that has since ensued, by cancelling the insulting Law 3 of 1885, refused to do so. The Transvaal Indians were even compelled, in 1904, to fight his Government in the Supreme Court, to see whether the meaning of " for purposes of trade " was included in the term " for residential purposes," securing a completely favourable judgment. On this occasion, the Chief Justice remarked :

It does strike one as remarkable that, without fresh legislation, the officials of the Crown in the Transvaal should put forward a claim which the Government of the Crown in England has always contended was illegal under the Statute, and which in the past it has strenuously resisted.

This judgment was not acceptable to the white traders in the Transvaal, and their agitation for fresh legislation in 1904 was supported by Lord Milner, who was then High Commissioner of South Africa and Sir Arthur Lawley, the then Lieutenant-Governor of the Transvaal. This attempt to injure the Indians by additional legislation was denounced in the House of Commons by several members, and Sir Charles Dilke declared, " *it would be infamous if, in face of the decision of the Supreme Court, legislation should be introduced in the Transvaal to overrule that judgment, and to foster racial prejudice.*" He insisted on an assurance that the government would not countenance any proposal for fresh legislation. In answer, Mr. Lyttelton said :—

Now that the decision has been given by the High Court of the Transvaal, which has granted to British Indians those privileges for which we have protested, to those privileges so granted I for one adhere. I think it is impossible for this country to take up any other position consistent with the national dignity and honour in regard to men who have come into the country, and on whose behalf we have made strong representations, and whose claim has been upheld by a judicial decision ; it would be inconsistent with the national honour and dignity to refuse them those privileges—in other words, to say that they should not have under the King's flag that which the Boer Republic rightly gave them.

Discussing the situation in the Transvaal, as it existed early in 1907, Mr. L. E. Neame says :

Morally and logically, the Indians have a very strong case. Vested interests have been aquired under the protection of the British Government. The indignation of that Government at the slightest hint of hardship or oppression to its humblest subjects aroused the world to admiration. The Indians had every reason to believe that, after the war, the grievances upon which the support of the Home Government had been received would be instantly removed. The grievances still remain. Is it to be wondered at that the Indians cannot now resist the temptation of asking what will be the 'effect produced in India' when they

return and report that, having now the power to redress the complaints which filled Lord Lansdowne with such indignation, the Government of the King-Emperor does nothing at all—or, rather, enforces harsh laws which the Boer Republic, under our pressure, allowed to remain in abeyance? They point to the burden of Empire which the poor Indian peoples support, and ask what does South Africa, with all its gold and diamonds, contribute compared with the millions demanded annually from the despised 'coolies', who are not deemed fit to walk on a pavement or ride on a tram!

But the Transvaal does not attempt to argue with the subtle-minded educated Indians on these points. It pins itself stubbornly to the tale of white traders [alleged to be] driven out of the small towns by Asiatic competition, and echoes Sir Arthur Lawley's reply to the revived pledges: 'If the redemption of the pledges upon which Sir M. M. Bhownaggree depends both in letter and in spirit means that, in fifty or a hundred years, this country will have fallen to the inheritance of the Eastern instead of Western populations, then, from the point of view of civilisation, *they must be numbered among promises which it is a greater crime to keep than to break.*' A very convenient reply to many things—but what if Mr. Kruger had used it?*

Towards the end of 1904, a "National Convention" of anti-Asiatics was held at Pretoria, and passed the following series of Resolutions:

1. That in the opinion of this Convention the serious delay that has occurred in dealing with the question of the status of the Asiatics has been and is highly prejudicial to the best interests of the Transvaal, and increases the difficulty of arriving at a satisfactory settlement.

2. That having regard to the enormous preponderance of the native races in this country, the difficulties surrounding the settlement of native policy, and the necessity for protecting the existing European population and encouraging further European immigration, this Convention affirms the principle that Asiatic immigration should be prohibited except under the provisions of the Labour Importation Ordinance. [That is, under contract of labour terminable outside the borders of the Colony.]

3. That this Convention, having regard to the importance of arriving at a permanent and conclusive settlement of the whole question and of preventing any further attempts to re-open the matter, urges upon the Government the advisability of removing into bazaars all Asiatic traders, compensation being provided for such as may have vested interests which have been legally acquired.

[An attempt was made to withdraw the reference to compensation.]

4. That this Convention, recognising the grave danger resulting from the continued issue of trading licences to Asiatics permitting trade outside bazaars, requests the Government to take immediate steps to pass the necessary legal enactments to prevent any further issue of such licences.

5. That, in regard to the appointment of any proposed Commission to deal with the Asiastic question, this Convention urges upon the Government the necessity for including therein men other than officials, with a thorough knowledge of existing conditions in South Africa.

6. That this Convention affirms its opinion that *all* Asiatics should be required to reside in bazaars (locations).

By the last Resolution, and having deliberately rejected an amendment exempting culture and education, this precious Convention, attended by 160 delegates of Municipalities, Chambers of

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* *The Asiatic Danger in the Colonies*, pp. 60-61.

Commerce, Agricultural Societies, Farmers' Associations, Ratepayers' Associations, the Witwatersrand Trade and Labour Council, &c.,

bound itself down to the principle that an educated British Indian, even if he happened to be a Member of the House of Commons, or a Prince deemed socially worthy of entertaining the future King and Queen of England, should be forced to reside in a location with the Madrassi waiters from a Railway Restaurant, or the Bombay hawker from the gateway of a mine compound.*

And, with some modifications, the three principal political organisations of the Colony have endorsed this policy of blind prejudice and stupid ignorance.

Early in 1906, when the grant of Responsible Government was contemplated 'for the Transvaal, the Transvaal British Indian Association approached the Constitution Committee, then sitting in the Colony, pointing out that, whilst the rights they claimed were civil, as distinguished from those which were social or political, yet the granting of the franchise to British Indians would be the most natural means of protecting their interests. It was urged against them that the treaty of Vereeniging precluded the possibility of any such provision being made, and Mr. Churchill, in the House of Commons, even went so far as to make the preposterous statement that the meaning given to the word "native" in South Africa included "Asiatic"! Lord Milner, who was a party to the treaty, declared that he himself had never intended to include in the term even half-castes of mixed Native (Kaffir) and European descent. At this time, too, the Imperial Government could have insisted upon the remedy of the Indian grievances prior to the grant of Responsible Government, but no bargain was attempted, either then, or, on a subsequent occasion, when the Imperial Government were prevailed upon to guarantee a public loan for the Transvaal. In 1906, the Transvaal Indians asked the following simple rights:

(i) The right to reside in any part of the Colony, subject to strict Municipal supervision and the ordinary Municipal by-laws, thus avoiding the imposition of location restraints;

(ii) the right to receive licences to trade, subject to control by the local bodies, with a right of appeal to the Supreme Court, so that over-trading might be avoided, and those who might not conform to the habits of the predominant race might be largely prevented from trading;

(iii) the right to own landed property in any part of the country;

(iv) the right to move about freely, that is, the usual facilities for the use of public conveyances in common with the white inhabitants.

The locations in existence are of the nature of the old Continental ghettos—equally squalid, and often insanitary. When

* *The Asiatic Danger in the Colonies*, by L. E. Neame, p. 65.

plague broke out in the Johannesburg Location, in 1904, due to municipal neglect, and the matter was brought up in the Legislative Council against the Indians, Dr. Turner, the Medical Officer of Health for the Colony, angrily turned on the speaker, telling him that he, too, "would live like a pig if he were compelled to reside in a pigsty."

The registration laws specially single out Asiatics from the rest of the community, and thus place them at a disadvantage as against their fellow-Colonists. As to the history of those laws together with the Immigration Law, it has been dealt with at length elsewhere by the writer.*

With the exception of one small plot of ground in Pretoria, Indians cannot own fixed property in the Transvaal, though the most degraded aboriginal native may take transfer in his own name. The old Dutch Law 3 of 1885 still operates, notwithstanding all the protests of Imperial Ministers.

Indians in Pretoria and Johannesburg are prohibited by municipal by-laws from walking on the footpath. They, however, do make use of them on sufferance.

Indians cannot purchase a penny stamp at the public counter in the Main Hall of the General Post Office, Johannesburg. They are obliged to resort to an evil-smelling, dark, underground room, together with aboriginal natives, from whom they are partitioned off by a wooden barrier. Dr. Abdurahman, of Cape Town, was, in the writer's presence, refused stamps in the Main Hall, and referred to this dungeon-like chamber, as was Dr. William Godfrey, an Indian doctor practising in Johannesburg.

Indians are not allowed to use the Pretoria tram-cars; in Johannesburg, they are prevented from riding on the ordinary municipal cars, but special trailer cars, for Natives (Kaffirs) and coloured people are occasionally run, at irregular intervals and on certain routes only, but, out of regard for its dignity, are never used by the Indian community. The prohibition is contained in Section 33 of the Johannesburg Tramways By-laws.

British Indians, with other coloured people, are put into specially reserved compartment when travelling second-class on the railways. They are not allowed at all to travel by certain trains, except upon special or urgent business. Thus, when Mr. Duncan, then Colonial Secretary, made an appointment to receive in Pretoria a deputation on the Registration Ordinance, the deputation were at first refused

* Part II: "A Tragedy of Empire: The Treatment of British Indians in the Transvaal—An Appeal to India."

permission to travel by a certain train from Johannesburg to Pretoria, though Mr. Duncan himself was travelling by the same train specially to keep his appointment with them. On another occasion, when Mr. Gandhi and Mr. H. O. Ally, the Transvaal delegates to England, in 1906, wished to book seats by the Imperial Mail, for Cape Town, connecting with the steamer there, they were at first refused tickets.*

Then, too, railway travelling is not always a matter of pleasure or convenience to Indians obliged by circumstances to go from one place to another. In the early part of 1907, Mr. Osman Latief, a well-known Indian trader, addressed the following letter to the Chief Traffic Manager of the Central South African Railways:

> On Monday night last, I booked my seat, 2nd class, to Potchefstroom. On arriving at Potchefstroom on the morning of the 19th inst., I was asleep and was carried on to Kookemoer station, where I alighted. Soon after, the express train from Fourteen Streams came, and the conductor refused to take me back to Potchefstroom, his reason being that there was no room, which was not correct. I had, therefore, to wait several hours until the next train came, which took me to Potchefstroom. This delay caused a great loss to me, as I had an appointment in Potchefstroom. Secondly, this morning, I returned from Potchefstroom, and the conductor refused to give me a seat in the 2nd class carriage, as each compartment contained some white persons, though the carriage was not full. I offered to pay a 1st class fare if I could not get one in the 2nd class. This he would not entertain, nor would he arrange for the white persons to move into another compartment which could easily have been done, and, consequently I had to stand at the back of the carriage on the platform of the exit, all the way to Johannesburg (109 miles). It was a windy morning, and I suffered much discomfort."

It is only fair to add, however, that complaints as to ill-treatment on the railways have become much fewer, the railway officials exercising, as a rule, a reasonable amount of courtesy and consideration.

It is generally believed, amongst British Indians in the Transvaal, that one of the objects of the anti-Asiatic legislation of 1906 and 1907, was an attempt to withdraw the attention of the Indian community from its old established grievances, which seemed to have some chance of remedy. Since then, these have been added to infinitely by, of course, the registration and immigration laws, and by certain other enactments. There is the Vrededorp Ordinance of 1906, later amended, whereby the Imperial Government conceded the right to the Transvaal Government of reserving certain areas for exclusive European residence and occupation—a new variant of the old location law. It only requires an extension of this principle to exclude British Indians from

*Concession tickets issued to Ministers of the Christian and Jewish faiths are refused to Hindu and Mahomedan priests, as in Natal. Religious tests are obviously not abolished in South Africa, and certainly not in the Transvaal.

every reasonably habitable part of the Transvaal, thus, by indirect means, compelling them to reside in locations. Indeed, at the back of all this anti-Asiatic legislation is the threat of locations, and the Transvaal Indians are well aware that, if they fail in their present struggle, their almost certain fate is consignment to locations, where they may be left to rot and ruin. An attempt was actually made, last year, to give Municipalities powers to compel Asiatics to reside in locations, and to refuse arbitrarily the renewal or issue of hawkers' licences, without the right of appeal to the Supreme Court.

In 1908, a new Gold Law was passed, several of its provisions adversely affecting the Indian community. The law, which repealed the old Republican law, retained, in the definition of the term "coloured person," the word "coolie." Moreover, the bracketing together of African aboriginal natives and Asiatics, British subjects and non-British subjects, ignored the peculiar position occupied by British Indian subjects of the Crown. The definition of "unwrought gold" was calculated to prevent Indian goldsmiths from plying their trade of manufacturing goldware and jewellery from gold-bars prepared in and imported from England. The retention of the original penal clauses relating to the offence of dealing in unwrought gold, in so far as they specially affect coloured people (besides their coming under the general prohibitions of the law), assumes that coloured people (including Indians) are the greater offenders in respect of this crime, whereas it is rarely known amongst Indians.

Another clause, whilst purporting to safeguard existing rights, precludes any Asiatic from acquiring any right (even a trading right) upon a proclaimed gold-field, and prohibits the holder of any existing right to transfer, sell, or sub-let that right or any portion of it to a non-European, nor does it permit any non-European to occupy or reside on ground held under such right. The Transvaal Government sought to prevent Indians from getting licences to trade on mining ground even where they had a lease, but the Supreme Court decided against the Government on the point.

Another clause prohibits any coloured person residing in the Witwatersrand area to reside outside a location or mining compound. This is an indirect means of compelling British Indians to reside in locations, thus secretly carrying out the segregation policy at the back of every action of the Transvaal Government. Every now and again, the Govern-

ment proclaim the cancellation of one location and then of a fresh one, invariably further away from business centres than the old one, with which, of course, it compares unfavourably. It is a modern variant of the old story of Ahab and Naboth's vineyard. Recently, however, the Government have received a severe rebuff at the hands of the Supreme Court. They notified the cancellation of the Boksburg Location, and the appointment of a new one a mile further away. They ordered the Indian traders to remove their stores and businesses to the new location at six weeks' notice, and refused to issue licences to trade in the old location for the current year. The Indians declined to remove, and were accordingly arrested *en masse*, under the Gold Law, and charged with trading and residing on a mining area outside of a location. They were brought before the Magistrate, who refused to grant a remand, but sentenced them all to imprisonment, without the option of a fine. They appealed, and the Supreme Court quashed the conviction, after scathingly rebuking the Magistrate, holding that, whilst Law 3 of 1885 empowered the Government to appoint locations, it gave them no powers of deproclamation. In the course of his judgment, the Chief Justice said:

> It was clear that the gravest injustice might be caused if from time to time streets or locations were pointed out to Asiatics in which they might live, and on the strength of which they might build expensive houses, and that then they could be called upon at short notice to close these houses and go elsewhere without compensation.

Yet it is exactly this drastic policy that the Transvaal Government delight in; more, they are often prepared, in spite of Supreme Court rebukes, to introduce legislation "remedying" the "defects" of existing legislation whose meaning the Judges have again and again stated the Government have misinterpreted—and it is seldom an ignorant, but usually a wilful misinterpretation, as, for instance, when they prosecuted a large number of Indian men and boys as prohibited immigrants, sending them backwards and forwards across the Portuguese-Transvaal border, and eventually condemning the men to imprisonment with hard labour, convictions afterwards quashed by the Supreme Court as being wholly illegal, a fact of which the Government were at the time well aware, as is plain from an admission made by the Attorney-General in a Report on the law made by him to the Imperial Government.

Transvaal Law (and South African Common Law) does not recognise the validity of Hindu or Mahomedan religious marriages. This is because South African law regards marriage as a civil con-

tract and not as a religious obligation, the religious ceremony alone, therefore, being insufficient for legal purposes. The preamble of Law 3 of 1897, regulating the marriages of coloured persons (including Asiatics) within the South African Republic, reads as follows :

Inasmuch as the people allow the dissemination of the Gospel among coloured people, and provision was made by Law No. 3, 1871, that the marriages of coloured people should be regulated by law, and *inasmuch as the people will not tolerate any equalisation (as between whites and blacks) either in Church or State ;*

[*The South African Republic, now the Transvaal* (which has taken over the above ineffable language without amendment) claimed to be a Christian State !]

and inasmuch as there are coloured persons who, by instruction and civilisation, have become distinguished from barbarians, and who, therefore, desire to live in a Christian and civilised manner, and accordingly wish to be lawfully united in marriage, be it hereby enacted as follows :

Art. 1. Male and female coloured persons who have reached a marriageable age may contract a lawful marriage with each other.

Art. 2. Every coloured person who wishes to contract a marriage as above must make application to that effect to a person or persons to be appointed for that purpose by the Government.

Now, the "person or persons to be appointed for that purpose by the Government" are invariably officials connected with the Native (Kaffir) Affairs Department, and Indians, who wish to contract a legal civil marriage are classed indiscriminately with African natives but just emerged from savagery.

This law explicitly prohibits the marriage of white persons with coloured persons. And this prohibition is extremely stringently carried into effect. So much so that, when the writer desired to have his own marriage solemnised, there was at first a refusal, on the part of the Registrar of European marriages, on the ground that he (the writer) was coloured. The Registrar had associated the possession of a dark skin with the writer's connection with the Indian community, and had considered him, although, in fact, a European, to be an Asiatic, and accordingly held that he precluded from registering such a marriage ! The prohibition even goes further than this. The marriage of a non-European man with a European woman, however high their status may be, and even if the marriage be validly contracted in a neighbouring Colony, is looked upon as unlawful in the Transvaal. According to a high legal authority, such a married couple may be proceeded against, under the Immorality Ordinance (! ! !), as though they were leading morally evil lives, and are liable on conviction, to heavy sentences of imprisonment with hard labour, together, in the case of the man, with lashes !

This, at least, is the underlying theory of this mediaval legislation. That it does not work out in practice is nothing to the point. The tree is there; it may one day bear fruit.

Not a penny is spent upon the education of Indian children, and owing to the bitter persecution of the resident Indians, the Indian population has dwindled, from 15,000, before the war, to little more than a third of that number to-day.

THE ORANGE RIVER COLONY.

There is not much to be said in regard to the Orange River Colony, and for a very simple reason. It has practically no Indian residents. There is, too, a very simple reason for this. In the late "eighties" or early "nineties", the whole of the Indian population was driven out of the then Orange Free State. Their stores were closed forcibly, and no compensation was granted. They suffered a loss of £9,000, whilst the prospects of the traders concerned were blighted. The law, which is entitled a "law to prevent the in-rush of Asiatic coloured persons," prevents any Indian from remaining in the Orange River Colony for more than two months, unless he gets the permission of the Governor-in-Council, who cannot consider the application to reside before thirty days have elapsed after the presentation of the petition and other ceremonies have been performed. No Indian can moreover, on any account, hold fixed property in the Colony, or carry on any mercantile or farming business. In addition, he is liable to an annual poll-tax, and should he contravene the provisions relating to the carrying on of a mercantile or farming business, he is liable to a fine of £25 or three months' imprisonment with hard labour, a penalty that is doubled for all subsequent contraventions. Nor is the Governor-in-Council obliged to issue this mutilated permission to reside. He may or may not, "according to the state of things," a delightfully vague condition of affairs. The result is that there are, in Orangia, only a few hotel-waiters, cooks, and domestic servants, who are theoretically classed, under the Colony's laws and regulations, with the aboriginal South African natives. At the end of the war, it was promised that the outcast Indian traders should be reinstated, but when application to this effect was made, it was curtly refused, and so Orangia is the only British Colony in South Africa which has no Indian trouble, having no Indian population. Perhaps, however, the future will record a different story, if the suggestion thrown out in the following report

from the *Friend*, the Government newspaper in the Colony, is worth anything:

At a Meeting of the O. R. C. Chamber of Commerce held on the 23rd January, 1908, at Bloemfontein, a letter was read from the Assistant Colonial Secretary, stating that the objection of the Chamber to the entry of an Indian woman, Haleman Adams, had been noted. It was pointed out, however, that the woman had been born in the Free State, had resided there for many years before going to Natal, and had been married in the Colony. The Government could not, therefore, interfere or prevent her returning to the Colony. *This case would not, however, form a precedent*, and every care would be taken to prevent the entry of Indians.

Mr. A. G. Barlow [now a Member of the Legislative Assembly] said they had all been viewing sympathetically the struggle the Transvaal Government were engaged in. This was a most difficult position. *This woman might have several daughters and thus form the nucleus of an Indian settlement in the Colony(!!!).*

Mr. Ruffel said he did not see how the Government could keep the woman out.

Mr. Dalldorff thought they should *have another try. If this was permitted the country might be swarming with coolies.*

Mr. Smetham's letter recording the objection was then read and as no one suggested any feasible means of preventing the entry of the woman, the Chairman said all they could do was to record the communication.

Finally, it was upon a petition from European trade-rivals, in the following terms, that the old Republican Government drove the Indians out:

As these men enter the State without wives or female relatives, the result is obvious. *Their religion teaches them to consider all women as soulless, and Christians as natural prey!*

SOUTHERN RHODESIA.

The territory of Southern Rhodesia, to the north of the Transvaal, is administered by the Chartered Company, the Administrator, however, being subordinate to the High Commissioner for South Africa. The territory is of enormous extent, is practically new country, with only a small population, and is crying out for development. There are some 800 Indians all told, who have entered under the general immigration law of the country, and it was against these that, last year, the Southern Rhodesia Legislative Council, imitating the shameful example of the Transvaal, passed a combined Asiatic Registration and Immigrants' Exclusion Ordinance. In some respects, notably the right given to an Asiatic to appeal against an order of expulsion to a Judge of the High Court, the measure was better than the Transvaal law, but in others, chiefly the combination of Asiatic Registration with a specific Asiatic immigration exclusion law, *and the inclusion of women*, made it considerably worse in its underlying principle. The local Indian community, supported by the Transvaal and Natal Indians, protested to the Imperial Government against this unwarranted

attack upon its liberties. At the end of last year, Lord Crewe forwarded a despatch to Lord Selborne, the High Commissioner, refusing to assent to the measure, on the grounds that no reason was shown why Southern Rhodesia should follow the reactionary example of the Transvaal rather than the more liberal policy of the Cape Colony or Natal; that the position of the Transvaal was different historically from that of its northern neighbour in that the former had differential legislation to start with whereas the latter had not; that the Transvaal was a Self-Governing Colony, and therefore responsible for its own follies, which the Imperial Government did not intend, of its own accord, to copy in its own administration; and the trouble in the Transvaal, the objections of the Indian population, and the stirring of public opinion in India and England on the subject. But the principal reason was, of course, the brilliant example set by the Transvaal passive resisters to the Transvaal Registration Law. This was, indeed, a triumph for passive resistance.

In the same Session of Parliament, an Ordinance was passed "regulating" the trade of general dealers and hawkers. In effect, it enabled the trade-competitors of Indian traders to refuse all new licences to trade, and also to refuse every hawker's licence, whether existing or new, the last without the right of appeal; and if a new hawker's licence were by chance renewed, it would not entitle the holder to trade outside the area in which it was taken out. Thus, an effort is being made, as elsewhere, to crush out the Indian trader from Southern Rhodesia.

THE CAPE COLONY.

The Cape Colony differs from the other South African Colonies, in that it is a country of vast distances. For instance, Kimberley is distant 647 miles from Capetown, Port Elizabeth, by rail, is 839 miles away, and East London, 887 miles. Obviously, intercommunication is very difficult, and the securing of united action requires much expenditure of time and energy. As a result, there are, not one central, but a number of independent Indian organisations in the principal towns of the Colony, and consequently, concerted action is rarely obtainable. Naturally, although the Cape is the most liberal, generally speaking, of all the South African Colonies in its Indian policy, the Cape Indians have been unable to take a strong stand against the comparatively small amount of anti-Asiatic legislation that does exist. The Cape Colony prides itself, and with

justice, upon having the most enlightened colour-policy of any State in the sub-Continent. Any coloured person able to pass the slight education test, and having the necessary qualifications of property-owner or renter, has the political, and, of course, the municipal franchise. As a matter of fact, Dr. A. Abdurahman, a gentleman of mixed Cape Malay and Indian descent, is a leading member of the Capetown Town Council.

The only Municipality, in the Cape Colony, where there are specific anti-Indian by-laws is East London. In this unique town, municipal regulations were promulgated under Act No. 11 of 1895, by virtue whereof, British Indians, even though considerable merchants, registered voters, and large rate-payers, have been reduced to the status of the African aboriginal native. These regulations prohibit their using the side-walks in the public streets; being out in the streets after 8 p. m. without a pass; residing and carrying on their business, within certain limits of the municipal area, except upon securing a municipal certificate—literally a police pass—both which first-mentioned disabilities have been considered by the best legal opinion in the Colony to be *ultra vires*. Whilst the East London Indians are thus legally and practically deprived of their full individual liberty, and placed below the level of their own Kaffir servants, they have, as masters and employers, to grant permits allowing freedom of movement in the town to these very servants, who are also otherwise protected and whose interests are safeguarded by special legislation. Many other petty insults are put upon them, such as not being allowed the use of the benches in the public parks, which benches are marked "for Europeans only"; the ferry boats on the Buffalo River are barred to them, except with considerable trouble and inconvenience; in the public markets, British Indians are relegated with the Kaffirs, whilst the white people are granted separate stands; and in the public tram-cars, Indians are not allowed inside. As these are municipal regulations, the Cape Government, though sympathetic, can do nothing to procure relief.

The two great grievances affecting the whole of the Cape Indian community are the Immigration Restriction Act and the Dealers' Licences Act. The first is founded upon the Natal Act, but goes further than that Act, and possesses the fatal defect of not defining "domicile." Moreover, unless an Indian, desirous of leaving the Colony on a visit, say, to India, furnishes himself with a permit *to return* (for which document, on each such occasion, he has to pay £1), he will be treated as a prohibited immigrant upon his return to the Colony. The Natal law provides for domicile

certificates, which are always valid. The Cape law does not define "domicile", and no "return permit" is valid after three years—it was, until recently, one year only. As a result, men who have had business at the Cape—they might even have had their wives and families there too—have been prevented from returning to the Colony, if they have omitted to provide themselves with a permit to return, or if they have outstayed the validity of this permit, which, in addition—a reprehensible demand made only, elsewhere in South Africa, by the Portuguese authorities of the Province of Mozambique—must carry the bearer's photograph. The result of this vexatious procedure, which has been intensified by the action of the Government in promulgating Regulations to cover cases not contemplated by the law itself, and therefore, it is believed, *ultra vires*, has been to considerably reduce the lawfully resident Indian population. It has now become difficult even for fathers to introduce their minor children, and Indians have had, at great expense to themselves, to seek the protection of the Supreme Court. The Chief Immigration Officer, in his last Report, makes the following statement:

> I am strongly in favour of a very definite legislative provision in the direction of compelling Indians in this country to obtain unquestionable documentary evidence of relationship and minority from the Government of India before they are allowed to take advantage of this exemption.

Thus, the whole Indian community is to be penalised for the possible fault of a few of its black sheep. The Cape permit system, generally, leaves openings for fraud and unfair dealing, and Indians think that the procedure should approximate more to that of Natal, where domicile is defined.

The *South African News* (the Government organ in Capetown) has commented as follows on the Cape Immigration Act:

> The whole spirit of the Act is illiberal, and as long as such acts are in the Statute-book, unpleasant cases.....are bound to arise.....The necessity for an act dealing with the subject may be admitted. But any such act is bound to deal with questions closely and essentially affecting the liberty of the subject, and *nothing could be more perverse than to deal with such questions by regulation instead of by statute.* Colonel Crewe said the other day that until the Feinstein case, there had been no difficulty in administering the Act. But it may well be that there have been many mute, inglorious Feinsteins who have never come before the Courts, and whose cases have been settled in an off-hand manner, *without the public knowing anything about them.* This unsavoury case may not have been without its value if it induces the Government to look into the matter and introduce legislation providing that *the law shall only be applicable to cases in which action is necessary in the public interest, and that it shall be carried out in accordance with rules definitely contemplated and accepted by Parliament.*

The Dealers' Licences Act, too, has been copied from that of Natal. Divisional Councils have the power to refuse licences; and there is only

the most problematical right of appeal to the Supreme Court. As a result, many Indian traders have been refused new licences, whilst others have been refused transfers of existing ones. But the worst of all is the wholesale refusal of hawkers' licences throughout the Colony, resulting in the ruin of hundreds of Indian hawkers, some of many years' standing, whose extinction was specially contemplated by the law, though the Act is in general terms. In Cape Town itself, hawkers can still get licences, but in the suburbs, in each of which a fresh licence is required, no hawker can obtain one. Shortly after the Act was passed, the *Diamond Fields Advertiser*, of Kimberley, said:

> We do not think that the majority of thinking Colonists have any desire to be unfair to the British Indians already in the country. There will be no wholesale confiscations of vested rights.

Unfortunately, the majority of Colonists are not of the thoughtful variety, and hawkers of many years' standing, as well as traders, have been deprived of their vested rights. And shortly after the Kimberley paper wrote the above, the Mayor of that town said that

> It was the intention of his Council to refuse any application for a hawker's licence which might be applied for in Kimberley. Now they had the power to deal with them, and now was their glorious opportunity.

Thus were the prophets confounded! Quite an interesting scene was enacted at the monthly meeting of the Cape Divisional Council held on November 5, 1907, to consider applications for permission to apply for licences to trade as general dealers. The *Cape Times* describes it as follows:—

> Not much time was wasted in refusing the applications or referring them back for further information.....Numbers 1, 2, 3, 5, 6, 7, and 9 (the Indian applicants) were refused straightway and numbers 4 and 8 (the European applicants) were referred back. The procedure was something as follows:—The Secretary would read out the Sanitary Inspector's Report on the state of the premises... ..Before Mr. Corrie had read half-a-dozen lines, Mr. Gibbs would shout out "Not granted", and the other Councillors followed suit. "Indians", said Mr. Gibbs with great scorn, "I want none of them—none of that nationality. I am not in favour of these Indians coming here at all, and I would like to see as many of them as possible getting out of this country.....Why, they live on the smell of an oil rag and sleep on the butter. I will do everything in my power whatever Council I'm on to drive them out.

A European Law Agent, commenting upon these proceedings in the *Cape Times*, complained that in the majority of cases the licences had been refused for no reason whatever, or simply because the applicant was an Indian or of some other nationality.

"In some instances," he proceeds, "my clients have been educated men who could read, write, and speak English fluently."

And adds

It does appear very hard that in a British Colony these men, who are British subjects, and have gone to the trouble and expense of mastering the English

language to a certain degree, should be boycotted. They employ an agent and go to considerable expense to endeavour to obtain a licence and invariably meet with a refusal for no rhyme or reason.

The *Cape Argus*, a prominent daily, published the following:

It has been brought to our notice that, in many cases, the suburban and Municipal Councils, acting under the powers conferred by the General Dealers Act, have refused the renewal of licences to Indian traders against whose character and business not a word can be said.....It is a cruel thing to deprive men with established businesses of their livelihood. These men can only realise their stock at a heavy loss. At the very least, they might have fair warning that their licences would not be renewed after a certain date, though even that would hardly be fair when the men have been allowed to set up in trade with the presumption that their business would be permanent.

Finally, the Hon. J. W. Sauer, one of the Cape Ministers, has thus, in the Cape Parliament, scathingly characterised the Courts appointed under the Licensing Law to decide upon the question of the issue or re-issue of trading licences in the Colony:

It was the only instance on record that he could find in any civilised country in the world *where the Judges were interested.* [Mr. Sauer obviously does not regard Natal as civilised!] *The Act constituted a Court of prejudiced Judges.* It was an iniquitous principle and it had worked most perniciously ..... Don't let them go into the hypocrisy of constituting a Court which they know was biassed and prejudiced, and *which was run in the interests of a particular class to create a monopoly.....The greatest injustices had occurred, and the most reputable people had been refused licences by interested parties.....* Don't let them constitute a Court which was biassed, and don't let them pretend it was in the interests of the white man, or in the interests of morality, or for sanitary reasons that they did this. *The basis of it all was to prevent competition.....It was a scandalous thing that there should be a Court constituted like this, and he would do his very utmost to get the law, as it now stood upon the Statute-Book, repealed, because he believed it was a piece of hypocrisy, the very worst piece of humbug he had ever seen on the Statute-Book.*

So that a man has actually stood forth in Cape Colony to protest against a piece of wicked legislation whose object and effect have been to ruin innocent, hard-working, law-abiding citizens!

THE PROVINCE OF MOZAMBIQUE.

The Province of Mozambique is under the Portuguese flag. Most of the Indians resident therein are in the District of Lourenzo Marques, and are either of British or Portuguese Indian origin. The latter also include a considerable number of Goanese Christians who are, generally, treated as having the same status as Europeans. Until recent years, the Portuguese authorities treated the Indians well. Formerly, so carefully did they regard them, that they refused to allow them to travel third-class on the

railways, even when they had only the wherewithal to purchase a third-class ticket—and this at a time when the South African Republic made even the most cultured Indian ride in a corrugated-iron coach with raw Kaffirs.* There are many Indians in Government service, some occupying very high positions. Some slight difference is made between British and Portuguese Indians, even when the latter are not Goanese. Of late years, with the growing influence of the Transvaal in the affairs of Delagoa Bay, the Portuguese treatment of Indians has become much harsher, so far as immigration restrictions are concerned, and the Portuguese Government have recently been assisting the Transvaal to deport direct to India Transvaal-domiciled Indians who have been forced over the Portuguese border. The existing Immigration Regulations do not permit this, but there are new draft regulations framed, and these are being enforced administratively, pending sanction, by virtue of the special arbitrary powers vested in the Governor-General. British Indians can only enter the Province, by land or by sea, on production of special passes, and if by land, on a document from the Portuguese Consul-General in the Transvaal stating that the bearer has a legal right to return to that Colony. Permits to enter are otherwise only granted to domiciled Indians, and three years' residence constitutes domicile. Similar restrictions for Indians entering by sea are enforced, and for Indians going from district to district of the Province. The permits are photographic. Exemptions are made in the case of landed-proprietors and those with large businesses. The duration of the permits is six months. The regulations do not apply to Asiatics whose refinement, education, uses, customs, and status are of a recognised and manifest superiority over those of the common individuals of their race. Thus does Portugal set an example to the British Colony of the Transvaal!

CONCLUSION.

We have seen in the foregoing pages something of the lesson taught to, and in part learnt by, the British Indians of South Africa. It is vastly different from that anticipated by the late Justice Ranade. It is a record of shame and cruelty that has no counterpart within the confines of the British Empire. These things may be expected in Russia or in some other despotically ruled country, but not under

* To-day, the Portuguese Government have even been prevailed upon by the Transvaal to deport one of their own citizens, Mr. Choonilal Pannalund, who has rights of residence and business interests in Lourenzo Marques.

the British flag, where, nevertheless, they occur. The lesson is one of faith betrayed and broken pledges, bitter humiliation, cruel slander, strong hatred, vindictive revenge, sudden ruin, sometimes even of dispersed families, abandoned children, dishonoured women, emasculated men. The iron has eaten deep into the souls of the South African Indians. After years of unparalleled thrift, arduous toil, intense self-sacrifice, they have seen their all snatched from them in the twinkling of an eye—as though an earthquake had suddenly come upon them, the earth had yawned, and had swallowed up the results of all their labours. Brought up in awe and reverence of the power of the British Raj to protect the helpless and succour the weak, they see it powerless to secure the very relief from its own subjects that it sought for them at the cannon's mouth ten years ago from a small semi-independent State governed by an oligarchy of farmers, ridden with an ignorant provincialism. In an article addressed to the *Udbodhana*, shortly before the outbreak of the South African War, Swami Vivekananda said :

> Under.....an absolute Government, the rights of all subjects are equal ; in other words, no one has any right to question or control the governing authority. So, there remains very little room for special privileges of caste and the like. But, where the monarchy is controlled by the voice of the ruling race, or a republican form of Government rules the conquered (subordinate) race, there, a wide difference is created between the ruling and the ruled ; and the most part of that power, which, if employed solely for the well-being of the ruled classes, might have done immense good to them within a short time, is wasted by the Government, in its attempts and applications to keep the subject race under its entire control. During the Roman Emperorship, her foreign subjects were, for this very reason, happier than under the Republic of Rome. For this very reason, St. Paul, the Christian Apostle, though born of the conquered Jewish race, obtained permission to appeal to the Roman Emperor, Cæsar, to judge of the charges laid against him.

That, in brief, is the history of the British Indians of South Africa. They still look back, in Natal, to the old days when responsible Government was not; as they do in the Transvaal, except that here there is in many a heart a passionate longing for the return of the " bad old days " of the Republican Government of Paul Kruger, when the British Agent used to intervene on their behalf.

The three elements that have gone to form this great mass of profound misery are colour-prejudice, race-hatred, and trade-jealousy, cemented by individual instances of personal ambition and wounded pride. In *A Modern Utopia*, Mr. H G. Wells, the eminent English writer and sociologist, says :

> Just now, the world is in a sort of delirium about race and the racial struggle.....The vileness, the inhumanity, the incompatibility of alien races is being exaggerated. The natural tendency of every human being towards a stupid conceit in himself and in his kind, a stupid depreciation of all unlikeness, is traded

upon by this bastard science. With the weakening of national references, and with the pause before the reconstruction in religious belief, these now arbitrary and unsubstantial race-prejudices become daily more formidable. They are shaping policies and modifying laws, and they will certainly be responsible for a large proportion of the wars, hardships, and cruelties the immediate future holds in store for our earth. No generalisations of race are too extravagant for the inflamed credulity of the present time. [*Vide* the memorials presented to the Governments of the late South African and Orange Free State Republics, attacking the morality of the Indian Immigrants.]

No attempt is ever made to distinguish differences in inherent quality—the true racial differences—from artificial differences due to culture. No lesson seems ever to be drawn from history of the fluctuating incidence of the civilising process, first upon this race and then upon that. The politically ascendant peoples of the present phase are understood to be the superior races, including such types as the Sussex farm-labourer, the Bowery tough, the London hooligan, and the Paris apache; the races not at present prospering politically, such as the Egyptians, the Greeks, the Spanish, the Moors, the Chinese, the Hindoos, the Peruvians, and all uncivilised people, are represented as the inferior races, unfit to associate with the former on terms of equality, unfit to intermarry with them on any terms, unfit for any decisive voice in human affairs. In the popular imagination of Western Europe [and South Africa] the Chinese are becoming bright gamboge in colour, and unspeakably abominable in every respect; the people who are black—the people who have fuzzy hair, and flattish noses, and no calves to speak of—are no longer held to be within the pale of humanity. These superstitions work out along the obvious lines of the popular logic. The depopulation of the Congo Free State by the Belgians, the horrible massacre of Chinese by the European soldiers during the Pekin expedition, are condoned as a painful, but necessary, part of the civilising process of the world. The world-wide repudiation of slavery in the nineteenth century was done against a vast, sullen force of ignorant pride, which, reinvigorated by new delusions, swings back again to power. 'Science' is supposed to lend its sanction to race-mania, but it is only 'science' as it is understood by very illiterate people that does anything of the sort—'scientists' science, in fact.

The present writer has been amazed, at times, after lengthy argument with an apparently intelligent European opponent, and when he had, as he supposed, countered the latter's fallacies at every point, to be finally met with this kind of answer, sweeping brusquely aside all logic and all common-sense: "Oh, but, after all, we are white, you know!" That, of course, was supposed to clinch the matter. Nothing further remained to be said. The writer knows, from experience, that when he has discussed the abuses existing on some of the Natal estates, under the system of indentured labour, with a Transvaaler, the latter has not been slow to indignantly characterise the Natalians for permitting them, totally ignoring the state of his own door-step. Similarly, when he has spoken to a Natal man of the barbarous treatment meted out to the Transvaal Indians by the enlightened Government of that Colony, the Natalian has been profuse in his denunciations of the stupid folly of it all, apparently quite oblivious of the horrors possible under the indenture system. Both remind one of the brutal gaoler, in

Charles Reade's *It's Never Too Late to Mend*, and his indignant repudiation of the savage cruelties inflicted by Legree upon his slaves, in Mrs. Hemans's wonderful book, *Uncle Tom's Cabin*. We can always see the mote in our neighbour's eye, but cannot pluck out the beam from our own. But generally speaking, South African Europeans are the victims of the history of their country, whose lessons, however, they have usually failed to learn, and of their present environment, which seems as a rule to have mastered them, body and mind. There are, naturally, very many Christian gentlemen, great-hearted opponents of cruelty and meanness in every form, throughout the sub-continent, and especially at the Cape, whose colour-policy is more liberal and in closer accord with twentieth-century ideas of progress and civilisation. And in this lies the hope of the future. But these stalwarts are, but too often, overwhelmed by the ignorant multitude led by a few reckless demagogues in whom are vested the insignia of leadership.

To-day, a new condition of affairs is facing South Africa. The sub-continent is on the point of sinking its many selfish differences, with a view to unification. The Indians in South Africa may see before their eyes a thing that it is given to very few to contemplate —the growth of what will probably be a strong, virile nation. The two white races, after a long and bloody conflict, are gradually throwing off the mutual distrust and dislike that have kept them asunder for many a decade, and retarded the progress of South Africa for half-a-century and more. Following upon this conflict of national antipathies, which are now, happily dying down, there has loomed upon the horizon a far more urgent danger, which indeed, was probably the hidden cause, the seed, the kernel, of the great war of ten years since—the economic strain between the inland and the coast States. South Africans may or may not be, in the mass, ripe for union. The writer is not here called upon to declare either way. But it is evident that they, or, at least, the most thoughtful men among them, realise that this growing inter-colonial enmity can have one result only in the long run—a fratricidal war, with consequent ruin to the whole country for generations. Following the tendency among the white races the world over towards greater concentration of forces, greater centralisation of directing power, and greater economy of energy, the two white races of South Africa are coming closer together, forgetful of racial cleavage and national differences, and see that the only real alternative to chaos, ruin, and retrogression is by way of closer union. But let it also be quite clear that this joining of hands is to be

by and on behalf of the white races alone. The ideal of a great white South Africa transcends everything. The non-whites of South Africa, though they so largely preponderate in numbers, are to be regarded as an undesirable element in the formation of the South African Union, and though they form a permanent part of the population, their interests are made deliberately to subserve those of the dominant races. Whilst, for instance, the coloured population at the Cape retains the political franchise so long as its individuals remain in that Colony, they are disfranchised elsewhere in South Africa, and their numbers are not reckoned in calculating the Cape's quota of members in the Union Parliament. Thus, the liberal-minded Cape statesmen will be swamped by the colour-reactionaries of the Transvaal, Orangia, and Natal. Again, whilst, theoretically, the white and coloured populations of the sub-continent are put upon an equality, so far as concerns freedom of locomotion within its limits, in practice, even Natal-born Indians may not travel outside the borders of that State, for the Transvaal and Orangia will turn them back, and the Cape will only admit them if they can pass the education tests. Thus, all the old disabilities remain for the Indians of South Africa.

It may be said, however, that, in the Constitution creating the South African Union, the interests of British Indians will be safeguarded by the customary reservation clause, whereby specific anti-Asiatic legislation will be reserved for the consideration of the Imperial Government. Indeed, in the early part of 1905, Lord Milner elaborated this point when replying to a deputation on the subject of the Transvaal Constitution. He said :

> There is one restriction which always exists in any Colony, whether it be a a Colony under Crown Colony Government, or with representative institutions, or with full self-Government—that is, of course, the ultimate power of the Crown to veto any measure. That would no doubt continue. It is universal, and I should like to draw attention to one point for the illumination of the public, who seem to be suffering from an extraordinary delusion with regard to it: and that is that the power of veto resting in the Crown is absolutely the same, whether you have Responsible Government or whether you have Representative Government. You do not increase the veto by having Representative Government. I say this especially with regard to such questions as native affairs or Asiatic affairs..... .If a measure was to be passed here dealing either with Asiatic affairs or with native affairs which, whether the Home Government approved of it or not, appeared to it to be a measure which infringed the right of British subjects, and which therefore the Home Government ought to veto, *it would equally veto it under Responsible Government.* As far as dealing with native affairs or Asiatic affairs is concerned, you will have exactly the same powers under the one system as under the other.

But, of course, this power of veto of race legislation does not entitle the Imperial Government to overrule what has now become the

common practice, throughout South Africa, of Government by Regulation. And then, again, it is obvious that Lord Milner did not learn his statesmanship in the school of modern Imperialism, or at least, that he was not endowed with the gift of prophecy. For, after exercising his power of veto over the Asiatic Law Amendment Ordinance, in 1906, passed by the Crown Colony Government, Lord Elgin assented, six months afterwards, to the same measure when re-enacted by the Responsible Government of the Transvaal, on the ground that the Colony was self-governing! Nay, more, Sir Richard Solomon, who was then aiming at the Premiership of the Transvaal, *and who had just returned from England, where he had repeated* interviews with Lord Elgin, declared, in his election address at Pretoria, that it would be found that, in practice, the reservation clause would be a dead-letter, so far as that particular piece of legislation was concerned! What guarantee, then, have the Indians of South Africa that the reservation clause may not at any time become a dead-letter under the Union Constitution? If the Imperial Government be powerless to say nay to the single Transvaal Government, how may it be expected that they will be any more potent to resist the unjust demands of a United South Africa? The evil example of the Transvaal has spread far and wide. Already there is talk of South Africa following the Transvaal's policy of complete exclusion of Asiatics, regardless of their degree of culture or civilisation, and even of the flag, that in theory, protects them. Lord Milner, speaking of such a policy, in 1903, declared that

> It would be impossible to enter into any sort of relation with the Asiatic world, if we are going, in this country, to adopt sweeping and indiscriminate legislation against Asiatics, or, in upholding that legislation, to use language which is insulting to Asiatics as Asiatics.

As the writer has shown elsewhere,* the Transvaal's Asiatic policy may, at any time, be followed by the rest of South Africa. Imperial Ministers have urged that the treatment of the Indian subjects of the Crown concerns alone the internal affairs of the Transvaal! What would have been the reply had Paul Kruger advanced that startling claim? Time was when Britain had no pride in her colonies and her colonists. "Perish the Colonies!" declared one *prominent Liberal Minister, fifty years ago. Time was when the* colonies and the colonists took no pride in Britain. "Cut the painter!" was the popular cry. But to-day things are different, and every

* Part II:—'A Tragedy of Empire: The Treatment of British Indians in the Transvaal—An Appeal to India.'

wretched rag of ignorant opinion labelled "Imperialism" is hungrily seized upon as a symbol of Empire. Is India, too, ashamed of her colonists? Has she learnt no lesson from their sufferings? Can she gain no experience from their history? Is she deaf to the cries of her exiled children? These have not lost their love of or faith in the Motherland. They have striven to show their oneness with her. They have suffered and sorrowed in silence for her sake. They have endured martyrdom, and shame, and humiliation, and ruin, for her honour's sake. Verily, suffering has been the badge of their tribe. They have sacrificed mightily, they have starved and hoped—aye, what greedy hope was theirs that India would turn to them in their need, to staunch their flowing blood, heal up their wounds, comfort the widow and the orphan, raise up the ruined and the despairing! Upon their lips has ever been the name of God, and in their hearts has always been a deep affection for the land that gave them birth, and for whose greatness and majesty, blindly, instinctively, they have struggled these many years against enormous odds. These heroic men have cried to India: "Oh, Thou Mother of Strength, take away my weakness, take away my unmanliness and MAKE ME A MAN!" In their agony and despair they have turned to their Motherland to rescue them from utter annihilation and extinction, that they might be spared for the sake of her high honour, her lofty reputation. And what has been India's reply?.....What will henceforth be India's answer?